



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1336

Floor Amendment in the Nature of a Substitute

(Patron Prior to Substitute – Stuart)

LD#: 21200313

Date: 02/17/2021

Topic: Restricted permits with ignition interlock systems

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
Cannot be determined *
- **Juvenile Detention Facilities:**
Cannot be determined *

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal adds § 18.2-271.5, to the *Code of Virginia* relating to restricted permits to operate motor vehicles with ignition interlock systems. After revocation or suspension of an operator's license for an offense defined in Article 7 of Chapter 8 of Title 46.2 (§§ 46.2-852 through 46.2-869, relating to reckless driving or improper driving), the court may issue the defendant a restricted license to operate a motor vehicle. Under the proposal, the court could impose a single restriction for the restricted license. This restriction would prohibit the defendant from operating a motor vehicle that is not equipped with a functioning and certified ignition interlock system. The restricted license would be for a period of not less than six consecutive months, the same time period specified in current law.

Currently, driving without an ignition interlock system that is required by § 46.2-391.01 is punishable as a Class 1 misdemeanor under § 18.2-272(C). A third or subsequent violation of any offense established by § 18.2-272 within 10 years is a Class 6 felony. However, § 18.2-272 of the *Code* establishes the penalties for more than just ignition interlock systems violations. The section establishes base penalties for operating a motor vehicle while a driver's license is revoked or restricted following a conviction for driving while intoxicated (DWI). It is a Class 1 misdemeanor to drive or operate a motor vehicle, engine or train in violation of a revoked or restricted license under § 18.2-272(A). Under § 18.2-272(B), it is a Class 1 misdemeanor for an individual whose driver's license was revoked or restricted as the result of a DWI conviction to operate a motor vehicle with a blood alcohol content of .02 percent or more.

Another *Code* section establishes a penalty for ignition interlock systems violations. It is a Class 1 misdemeanor under § 18.2-270.1 to tamper with, or in any way attempt to circumvent the operation of, an ignition interlock system.

Analysis:

Sentencing Guidelines data for FY2019 and FY2020 indicate that 95 offenders were convicted of a felony for a third or subsequent violation of § 18.2-272. This was the primary, or most serious, offense in 68 of the cases. Over half (52.9%) of the offenders in these cases received a state-responsible (prison) term for which the median sentence was 1.0 years. Another 36.8% of the offenders received a local-responsible (jail) term with a median sentence length of six months. The remaining 10.3% did not receive an active term of incarceration to serve after sentencing.

According to fiscal year (FY) 2019 and FY2020 General District (Traffic) Court Case Management System (CMS) data, 58.7% of offenders convicted of a Class 1 misdemeanor under § 18.2-272, driving without an ignition interlock system (as the primary, or most serious, offense), were given a local-responsible (jail) term. The median sentence in these cases was one month. The remaining offenders did not receive an active term of incarceration to serve after sentencing. For offenders whose primary offense was a misdemeanor violation of § 18.2-270.1, tamper with, or in any way attempt to circumvent the operation of, an ignition interlock system, most (71.4%) were given a jail term with a median sentence of 20 days.

Impact of Proposed Legislation:

State adult correctional facilities. While providing that the minimum mandatory length of time for ignition interlock requirements shall be six months, which is the same as the length specified under the current law, the proposal would limit the number of restrictions placed upon a subset of individuals subject to a restricted license and, therefore, may reduce the number of individuals who would violate the provisions of § 18.2-272. The proposed legislation is unlikely to have an impact on the prison bed space needs of the Commonwealth during the six-year projection window specified by § 30-19.1:4 for legislative impact statements.

Local adult correctional facilities. Similarly, the proposal is not expected to have an impact on local-responsible (jail) bed space needs.

Adult community corrections resources. The proposal is not expected to increase the need for state or local community corrections resources in Virginia.

Virginia's sentencing guidelines. Felony convictions under § 18.2-272 are covered by the current sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice