



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2875

(Patron – McEachin)

LD#: 07-8518410

Date: 12/27/2006

Topic: Driving while intoxicated; subsequent offense

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None
- **Juvenile Detention Facilities:**
None

Summary of Proposed Legislation:

The proposal amends § 18.2-270 regarding penalties for third and fourth offense driving while intoxicated (DWI) convictions under § 18.2-266. Under the current provision, penalties defined for these offenses specify that the current and previous violations must have been committed within a 10-year period. For example, a person convicted of three DWIs committed within a 10-year period is guilty of a Class 6 felony and is subject to a mandatory minimum sentence of 90 days (if the 3 violations occur within a 5-year period, the mandatory minimum sentence is 6 months). A fourth or subsequent DWI committed within a 10-year period carries a mandatory minimum sentence of 1 year. The proposal removes the requirement that the DWI violations must have occurred within a 10-year period for these penalties to apply.

Analysis:

According to fiscal year (FY) 2005 and FY2006 Sentencing Guidelines (SG) data, there were 1,597 convictions for third and fourth offense DWI under § 18.2-266. Sentencing information is presented in the table below.

FY2005 and FY2006 Felony Sentencing Information

Felony Offense	Total Cases	Disposition				
		No Active Incarceration	Local-Responsible (Jail)		State-Responsible (Prison)	
		% of Cases	% of Cases	Median Sentence	% of Cases	Median Sentence
DWI 3 rd within 10 years	1,055	2%	85%	4 mos.	13%	1.3 yrs.
DWI 3 rd within 5 years	350	2%	80%	6 mos.	18%	1.1 yrs.
DWI 4 th within 10 years	192	3%	16%	7 mos.	81%	1.3 yrs.

Note: Sentence data reflects the total effective sentence (imposed less suspended time) given for all offenses in the same sentencing hearing. The median sentence is the middle value, above and below which lie an equal number of cases.

Data Source: Sentencing Guidelines (SG) database.

Impact of Proposed Legislation:

State adult correctional facilities. Because it removes the 10-year window connected with third or subsequent DWI convictions under § 18.2-266, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. While this may result in additional commitments to prison, the magnitude of the impact on prison beds cannot be determined with existing data.

Local adult correctional facilities. The proposal may also increase local-responsible (jail) bed space needs by generating additional commitments to local and regional jails. The magnitude of the impact cannot be quantified with existing data.

Adult community corrections resources. Because the proposal could result in convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-266 are covered by the sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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

dui02_8518