



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1693

(Patron – Albo)

LD#: 09-4308404

Date: 11/18/2008

Topic: Driving While Intoxicated

Fiscal Impact Summary:

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

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal changes procedural language contained in § 18.2-98. Currently, § 18.2-98 states that a person's blood alcohol level, for the purposes of this section, is identified by the chemical test administered as provided in the article. The proposal replaces this language and instead states that the person's blood alcohol level will be defined as the blood alcohol level that was entered into evidence at trial.

Analysis:

According to the fiscal year (FY) 2006 and FY2007 Pre/Post-Sentence Investigation (PSI) database, 1,888 offenders were sentenced for a 3rd or 4th conviction of driving under the influence (DUI) of alcohol in violation of § 18.2-266 during this time period. The 3rd or 4th conviction for DUI was the primary, or most serious, offense in 1,691 of these cases. Roughly two-thirds (66.2%) of these offenders received a local-responsible (jail) sentence, with a median sentence of 6 months. For the 30.7% of offenders who were given a state-responsible (prison) term, the median sentence was 1.5 years.

According to the calendar year (CY) 2006 and CY2007 General District Court Automated Information System (CAIS) database, 46,987 offenders were sentenced for a 1st or 2nd conviction of DUI involving alcohol during this time period as the primary, or most serious, offense. Nearly half (46.4%) were sentenced to a jail term with a median sentence of 10 days. The remaining 53.6% were not given an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal expands what is sufficient evidence of a person's blood alcohol level at trial. The proposed changes are not expected to increase the number of persons convicted under § 18.2-266, nor are those sentences expected to increase with this new evidentiary rule. Therefore, future state-responsible (prison) bed space needs of the Commonwealth are not expected to increase.

Local adult correctional facilities. The proposal is not expected to increase local-responsible (jail) bed space needs of the Commonwealth.

Adult community corrections resources. The proposal is not expected to increase the need for adult community corrections resources.

Virginia's sentencing guidelines. Most 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, the proposal is not expected to increase juvenile correctional center bed space needs.

Juvenile detention facilities. According to the Department of Juvenile Justice, the proposal is not expected to increase bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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