



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1159

(Patron – Oder)

LD #: 10101812

Date: 12/28/2009

Topic: Approaching stationary vehicles displaying warning lights on highways

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal expands § 46.2-921.1, relating to yielding the right-of-way and reducing speed when approaching stationary emergency vehicles on the highway, to include certain towing, construction, and utility vehicles operating flashing lights. A first offense that does not result in the death of another person would be punishable as a traffic infraction. A second or subsequent violation would be a Class 1 misdemeanor, while a violation that results in the death of any person would be a Class 6 felony. Under the proposed subsection D, the provisions in § 46.2-921.1 would not apply in highway work zones.

Currently, § 46.2-921.1 only applies to stationary emergency vehicles and any violation of this section is a Class 1 misdemeanor.

Analysis:

According to the Local Inmate Data System (LIDS) for calendar years 2007 and 2008, a violation of § 46.2-921.1 was the most serious offense for 10 offenders held in jail pre- or post-trial during this time period. All of the offenders were sentenced to a jail term, with a median sentence length of approximately 30 days.

Impact of Proposed Legislation:

State adult correctional facilities. Because it increases a misdemeanor to a felony offense in certain situations and expands the applicability of § 46.2-921.1, the proposal may have an impact on the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. The magnitude of the impact on prison beds cannot be quantified.

Local adult correctional facilities. By lowering first violations of § 46.2-921.1 that do not result in death from Class 1 misdemeanors to traffic infractions, the number of individuals who would be eligible for incarceration in local adult correctional facilities will likely decrease. However, the expansion of the statute to cover additional behaviors may offset any decrease in the local-responsible offender population. The net impact cannot be determined with existing data.

Adult community corrections programs. 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 cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. The offense defined in § 46.2-921.1 is not covered by the sentencing guidelines as the primary, or most serious, offense; however, a conviction under this provision could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is 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. According to the Department of Juvenile Justice (DJJ), 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; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

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

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