



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 936

(Patron – Bell)

LD #: 10102923

Date: 12/15/2009

Topic: Unlawful presence within or entry of a motor vehicle

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

* 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 adds § 18.2-146.1 to the *Code of Virginia* to make it a Class 1 misdemeanor for any person to enter or remain inside a motor vehicle without the permission of the owner, lessee or authorized operator unless he has contractual interest in the motor vehicle. If an individual is convicted of a third or subsequent violation under this section, the offense would be elevated to a Class 5 felony. The proposal exempts law enforcement officers, state-authorized motor carrier inspectors, and individuals lawfully repossessing the vehicle from prosecution under the new section. In addition, the proposal does not apply to motor vehicles that must be moved because they are abandoned, inoperable, or improperly parked.

Analysis:

The number of incidents involving the proposed crime is unknown. However, according to the Local Inmate Data System (LIDS), 136 persons were held pre- or post-trial in jail during calendar years 2007 and 2008 for a violation of § 18.2-146 (a Class 1 misdemeanor for damaging or tampering with a vehicle). In each of these cases, violation of § 18.2-146 was the primary (or most serious) offense at sentencing. Roughly 79% of the offenders were sentenced to a local-responsible (jail) term, with a median sentence length of 1.4 months. LIDS data do not capture offenders who were never booked into a local or regional jail.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates a new felony offense, the proposal may increase 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. Because convictions under either the misdemeanor or felony provisions of the proposal could result in a sentence to be served in a local or regional jail, the proposal increase local-responsible (jail) bed space needs. However, the magnitude of the 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 new offenses would not be covered by the sentencing guidelines as the primary (or most serious) offense. A conviction under one of these provisions, however, could augment the guidelines recommendation if the most serious offense at sentencing is a covered offense. No adjustment to the sentencing guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice, the impact of the proposal on juvenile correctional center bed space needs cannot be determined.

Juvenile detention facilities. According to the Department of Juvenile Justice, the impact of the proposal 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 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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