



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1559

(Patron – Morris, R.)

LD#: 13103202

Date: 1/3/2013

Topic: Driving while intoxicated

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 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-270 to extend the time period during which the penalty for a fourth or subsequent conviction for driving while intoxicated (DWI) can be enhanced. Currently, a fourth or subsequent DWI offense committed within 10 years is a Class 6 felony and certain mandatory minimum penalties apply. Under the proposal, the requirement that the offenses occur within 10 years would be removed. The mandatory minimum penalties would apply to all convictions for a fourth or subsequent offense, regardless of the time period. Proof of a previous felony conviction under § 18.2-270, for a third or fourth DWI, would be sufficient evidence for a fourth or subsequent conviction under this proposal.

Analysis:

According to fiscal year (FY) 2011 and FY2012 Sentencing Guidelines data, 220 offenders were sentenced for a fourth or subsequent DWI conviction in violation of § 18.2-266. The fourth or subsequent DWI conviction was the primary, or most serious, offense in 172 of these cases. Of those, more than 92% received a state-responsible (prison) term with a median sentence of 1.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. Because additional offenders would be eligible for felony prosecution for a fourth or subsequent DWI with a mandatory minimum, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. 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. The proposal may also increase the local-responsible (jail) bed space needs of the Commonwealth. However, the magnitude of the impact cannot be determined.

Adult community corrections resources. Because the proposal could result in additional felony 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. Felony convictions for fourth or subsequent violations of § 18.2-266 that do not involve drugs or a child are covered by the sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. The Department of Juvenile Justice reports that this proposal would have no impact on bed space needs for juvenile correctional centers.

Juvenile detention facilities. The Department of Juvenile Justice reports that this proposal would have no impact on juvenile detention center bed space needs.

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 3 of the Acts of Assembly of 2012, Special Session I, 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 confinement to the custody of the Department of Juvenile Justice.

DWI05_3202