



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1148 (Patron – Morefield)

LD#: 14103577

Date: 1/8/2014

Topic: Reckless driving resulting in death or injury to certain persons

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 806 of the 2013 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 § 46.2-867.1, relating to reckless driving resulting in death or serious physical injury, to the *Code of Virginia*. Under the proposal, any person convicted of a misdemeanor for reckless driving where such violation causes the serious physical injury or death of any emergency medical services personnel, firefighter, highway worker, or law-enforcement officer engaged in his or her official duties, is guilty of a Class 6 felony. The penalty for this offense would include a mandatory minimum fine of \$2,500. In addition, the court would be required to suspend the offender's privilege to operate a motor vehicle for one year and may impose a civil penalty of up to \$10,000.

The proposal shares some similarities with § 46.2-868(B), which increases the penalty for reckless driving to a Class 6 felony in cases in which the offender was driving while his license was suspended for a moving violation and his actions were the sole and proximate cause of the death of another. The proposed § 46.2-867.1 is not restricted to offenders driving on a suspended license; however, it would only apply in cases where the victim is an emergency medical services provider, firefighter, highway worker, or law-enforcement officer.

Analysis:

According to the Virginia Highway Safety Office, there were 1,539 traffic fatalities in the Commonwealth during 2011 and 2012.¹ These reports also indicate that a total of 130,386 individuals were injured during traffic-related incidents during this time period. It is not known how many of these cases involved the

¹ *Virginia Traffic Crash Facts (2011 and 2012)*, Virginia Highway Safety Office

death or serious physical injury of an emergency medical services provider, firefighter, highway worker, or law-enforcement officer engaged in his or her official duties.

General District Court Case Management System (CMS)² data for fiscal year (FY) 2012 and FY2013 indicate that 13,724 offenders were convicted of a Class 1 misdemeanor for driving recklessly in a manner that endangered life, limb or property, in violation of § 46.2-852. The majority (88.6%) of these offenders did not receive an active term of incarceration to serve after sentencing. For the 11.4% of offenders given a local-responsible (jail) term to serve, the median sentence was approximately 11 days.

Available data do not contain sufficient detail to determine the number of cases that would be affected by the proposal. However, affected offenders may be sentenced similarly to those who are currently convicted under statutes similar to the proposed Class 6 felony. According to FY2012 and FY2013 Circuit Court Case Management System (CMS) data, 38 offenders were sentenced for driving while intoxicated resulting in serious bodily injury in violation of § 18.2-51.4 (a Class 6 felony) during this time period. The DUI maiming conviction was the primary, or most serious, offense in 25 of the cases. Of these, more than half (56%) received a state-responsible (prison) term, for which the median sentence was 2.5 years. Ten offenders (40%) were sentenced to a local-responsible (jail) term, with a median sentence of three months. The remaining offender did not receive an active term of incarceration to serve after sentencing. Circuit Court CMS data also indicate that, for FY2012 and FY2013, there were no felony convictions for reckless driving with a suspended license resulting in the death of another under § 46.2-868(B).

Impact of Proposed Legislation:

State adult correctional facilities. Because it adds a new felony to the *Code*, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that could result from the proposal cannot be estimated; therefore, the magnitude of the impact cannot be determined.

Local adult correctional facilities. The proposal may also increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

Adult community corrections programs. Because the proposal could result in felony convictions and subsequent supervision requirements for additional offenders, the proposal may increase the need for adult community corrections resources. However, the potential impact on state and local community corrections programs cannot be determined.

Virginia's sentencing guidelines. As a new felony offense, convictions under the proposed § 46.2-867.1 would not be covered by the sentencing guidelines as the primary (most serious) offense in a case; however, convictions for this crime may augment the guidelines recommendation if a covered offense is the most serious at sentencing. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. The Department of Juvenile Justice reports that the impact of this proposal on bed space needs for juvenile correctional centers cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that this proposal's impact on detention center bed space needs cannot be determined.

² Formerly referred to as the Court Automated Information System (CAIS).

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 806 of the 2013 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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