



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 296 (Patron – O’Quinn)

LD #: 16103082

Date: 12/27/2015

Topic: Eluding police

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**

**Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the 2015 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 46.2-817 of the *Code of Virginia* to increase the penalty for eluding a law-enforcement officer in certain circumstances.

Currently, any person who, after receiving a signal from a law-enforcement officer to stop, drives a motor vehicle in a willful and wanton disregard of such signal or who attempts to elude the law-enforcement officer is guilty of a Class 2 misdemeanor. Under § 46.2-817(B), the penalty is increased to a Class 6 felony if the behavior endangers another. If the law-enforcement officer is killed as a direct and proximate result of the pursuit, the crime is punishable as a Class 4 felony. The proposal expands the applicability of the Class 4 felony to include instances in which the law-enforcement officer suffers serious bodily injury.

Analysis:

According to Sentencing Guidelines data for fiscal year (FY) 2014 and FY2015, 712 offenders were convicted of a Class 6 felony for eluding police under § 46.2-817(B) as the primary (most serious) offense at sentencing. Of these, 10.1% did not receive an active term of incarceration to serve after sentencing. Slightly more than one-third (35.4%) were sentenced to local-responsible (jail) terms, with a median sentence of six months. The remaining 54.5% received a state-responsible (prison) term, with a median sentence of 1.3 years.

Circuit Court Case Management System (CMS) data for FY2010 through FY2015 indicated that one offender was convicted of a Class 4 felony under § 46.2-817(C) for eluding resulting in the death of a

law-enforcement officer. This offender did not receive an active term of incarceration to serve after sentencing.

Existing data sources do not provide sufficient detail to determine the number of convictions for eluding under § 46.2-817(B) that involved the serious bodily injury of a law-enforcement officer.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing felony, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that may result from enactment of the proposal, or potentially longer sentences, cannot be estimated. Therefore, the magnitude of the impact on prison bed space needs 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 an additional number of offenders, the proposal may increase the need for state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. The Class 6 felony offense for eluding police under § 46.2-817(B) is covered by the sentencing guidelines when this offense is the primary, or most serious, offense in a case. Convictions of a Class 4 felony under § 46.2-817(C) are not covered when this offense is the primary offense; however, a conviction for this offense could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

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

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact 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 665 of the 2015 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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