



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 730

(Patron – Stuart)

LD #: 16103315

Date: 1/12/2016

Topic: Driving while texting, etc.

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 adds §§ 18.2-36.3 and 18.2-51.7 to the *Code of Virginia*. Section 18.2-36.3 clarifies that driving in violation of § 46.2-1078.1, involving the use of handheld personal communication devices in motor vehicles, resulting in the unintentional death of another person is punishable as involuntary manslaughter. Additionally, if the conduct demonstrates a reckless disregard for human life, the offender would be guilty of aggravated involuntary manslaughter, which is punishable by confinement up to 20 years and a mandatory minimum term of one year. Under the proposed § 18.2-51.7, any person who, as a result of driving in violation of § 46.2-1078.1 in such a manner as to show reckless disregard for human life, unintentionally causes serious bodily injury to another person resulting in permanent and significant physical impairment would be guilty of a Class 6 felony.

Currently, violations of § 46.2-1078.1 are traffic infractions. Involuntary manslaughter is punishable as a Class 5 felony under § 18.2-36.

Analysis:

According to the General District (Traffic) Court Case Management System (CMS) for fiscal year (FY) 2014 and FY2015, 3,589 offenders were convicted of a traffic infraction under § 46.2-1078.1 for using a handheld device while driving. The number of cases in which an offender's violation of § 46.2-1078.1 resulted in the death or permanent and significant physical impairment of another is unknown. However, affected offenders who cause the unintentional death of another may be sentenced similarly to those who are currently convicted of a Class 5 felony under § 18.2-36 for involuntary manslaughter. According to FY2014 and FY2015 Sentencing Guidelines data, 55 offenders were convicted of involuntary

manslaughter in violation of § 18.2-36. This offense was the primary, or most serious, offense in 50 cases. The majority (70%) of these offenders received a state-responsible (prison) term, for which the median sentence was three years. While 8% did not receive an active term of incarceration to serve after sentencing, the remaining 22% were sentenced to local-responsible (jail) terms, with a median sentence of five months.

Existing data are insufficient to estimate potential sentences relating to the injury of others under the proposed § 18.2-51.7.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates new felony offenses, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, existing data sources do not provide sufficient detail to estimate the number of additional felony convictions, or potentially longer sentences, that may result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may also increase local-responsible (jail) bed space needs, but 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. Convictions for involuntary manslaughter under § 18.2-36 are covered by the sentencing guidelines. However, the new felony offenses specified in the proposed §§ 18.2-36.3 and 18.2-51.7 would not be covered by the sentencing guidelines as the primary offense. Such a conviction, however, 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 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.