



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2231

Amendment in the Nature of a Substitute (Patron Prior to Substitute – Miller)

LD#: 17104682

Date: 1/26/2017

Topic: Ignition interlock systems

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
None (\$0)*
- **Juvenile Detention Facilities:**
None (\$0)*

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends §§ 18.2-270.1 and 18.2-271.1, relating to convictions for driving under the influence.

Currently, pursuant to § 18.2-270.1, courts must prohibit individuals convicted of driving while intoxicated under § 18.2-266 or maiming, etc., of another resulting from driving while intoxicated (§ 18.2-51.4) from driving a motor vehicle that is not equipped with an ignition interlock as a condition of a restricted license. For a second or subsequent conviction under § 18.2-266, the court must require that an ignition interlock be installed on each motor vehicle owned by or registered to the offender. The proposal clarifies that the period of time during which an offender is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or is required to have an ignition interlock system installed would be calculated from the date the offender is issued a restricted license by the court.

Section 18.2-272 of the *Code* establishes base penalties for operating a motor vehicle while a driver's license is revoked or restricted following a conviction for driving while intoxicated. It is a Class 1 misdemeanor to drive or operate a motor vehicle, engine or train in violation of a revoked or restricted license under § 18.2-272(A). Under subsection B, it is a Class 1 misdemeanor for an individual whose driver's license was revoked or restricted as the result of a DWI conviction to operate a motor vehicle with a blood alcohol content of .02 percent or more. Driving without an ignition interlock system that is administratively required (by § 46.2-391.01) because a court failed to impose the prohibition is also punishable a Class 1 misdemeanor under § 18.2-272(C). A third or subsequent violation of § 18.2-272 within 10 years is a Class 6 felony.

Analysis:

According to fiscal year (FY) 2015 and FY2016 General District (Traffic) Court Case Management System (CMS) data, 56% of offenders convicted of a Class 1 misdemeanor under § 18.2-272(A) for

driving on a revoked or restricted license after a DWI conviction (as the primary, or most serious, offense) were given a local-responsible (jail) term. The median sentence in these cases was approximately 20 days. The remaining offenders did not receive an active term of incarceration to serve after sentencing. For offenders whose primary offense was a misdemeanor violation of § 18.2-272(B) for driving on a revoked or restricted license with a blood alcohol content greater than .02 percent, most (80%) were given a jail term with a median sentence of approximately one month. Of the 55 offenders who were convicted of an interlock violation under § 18.2-272(C), 56.4% were sentenced to a jail term. The median sentence length for these offenders was approximately 20 days.

Sentencing Guidelines data for FY2015 and FY2016 indicate that 102 offenders were convicted of a felony for a third or subsequent violation of § 18.2-272. This was the primary, or most serious offense in 71 of the cases. Of these, 33 (46.5%) were sentenced to a local-responsible (jail) term, with a median sentence length of three months. While 11 offenders (15.5%) did not receive an active term of incarceration to serve after sentencing, the remaining 38.0% were sentenced to state-responsible (prison) terms, for which the median sentence was one year.

Impact of Proposed Legislation:

State adult correctional facilities. Since the proposal does not lengthen the period of time during which an offender is subject to ignition interlock requirements and only clarifies when this period begins, it is not expected to increase the number of felony convictions under § 18.2-272. Therefore, the proposal is unlikely to increase the future state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposal is unlikely to increase local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal is not expected to increase the need for adult community corrections resources.

Virginia's sentencing guidelines. Felony convictions under § 18.2-272 are covered by the current sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice (DJJ), the proposal will not increase direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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