



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2238 (Patron – Miller)

LD#: 17103087

Date: 1/9/2017

Topic: Ignition interlock systems

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Direct Care:**
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 780 of the 2016 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 §§ 18.2-270.1, relating to requirements for ignition interlock systems.

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 and all offenders convicted under § 18.2-51.4, the court must require that an ignition interlock be installed on each motor vehicle owned by or registered to the offender. The proposal would expand these restrictions to apply to individuals convicted under § 18.2-36.1 for driving while intoxicated resulting in the death of another.

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 Under subsection B, it is a Class 1 misdemeanor for an individual whose driver's license was revoked or restricted as the result of a DWI conviction to operate a motor vehicle with a blood alcohol content of .02 percent or more.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 the Sentencing Guidelines database for fiscal year (FY) 2015 and FY2016, 67 offenders were convicted of a felony under § 18.2-36.1 for involuntary manslaughter resulting from driving while intoxicated. Slightly less than half of these offenders (47.8%) were sentenced for driving while intoxicated in violation of § 18.2-266 alongside the manslaughter conviction. Existing data do not contain sufficient detail to determine the number of additional offenders who would be required to install ignition interlock systems and would subsequently drive in violation of the restriction. However, affected offenders may be sentenced similarly to those who are currently convicted under § 18.2-272.

General District (Traffic) Court Case Management System (CMS) data for FY2015 and FY2016 indicate that 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. To the extent that the proposal expands the ignition interlock requirements to additional offenders, the proposal may increase the number of individuals who could be found guilty of a third or subsequent violation of § 18.2-272 for failing to comply with these requirements. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not contain sufficient detail to identify cases that would be affected by the proposal or to estimate the impact of the proposed legislation; therefore, the impact of the proposal on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the impact of the proposal on local-responsible (jail) bed space needs cannot be determined.

Adult community corrections resources. The impact on state community corrections resources and local community-based probation services cannot be estimated.

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 impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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 780 of the 2016 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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