



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 115 (Patron – Webert)

LD#: 18101082

Date: 12/04/2017

Topic: Reckless driving

#### 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 836 of the 2017 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal modifies § 46.2-853 to expand the definition of reckless driving. Currently, any person who drives a motor vehicle that is not under proper control or has inadequate/improperly adjusted brakes on any highway in Virginia is guilty of reckless driving. Under the proposal, the penalty associated with reckless driving would also apply to any person who fails to give proper time and attention to driving. Under § 46.2-868, reckless driving is punishable as a Class 1 misdemeanor or, if the person's license had been suspended or revoked due to a moving violation and the reckless driving was the sole and proximate cause of death of another, a Class 6 felony.

#### Analysis:

According to the Virginia Highway Safety Office's most recent publication, there were 1,453 traffic fatalities in the Commonwealth during 2014 and 2015.<sup>1</sup> It is not known how many of these fatalities were caused by a driver whose license was suspended at the time of the accident or whether any of the accidents involved the use of a handheld personal communications device.

According to fiscal year (FY) 2016 and FY2017 data from the General District Court Traffic Case Management System (CMS), 5,566 offenders were convicted of misdemeanor reckless driving under § 46.2-853. Of these, the majority (96.6%) did not receive an active term of incarceration to serve after

<sup>1</sup> 2015 Virginia Traffic Crash Facts, Virginia Highway Safety Office. Accessed December 4, 2017, from [https://www.dmv.virginia.gov/safety/crash\\_data/crash\\_facts/crash\\_facts\\_15.pdf](https://www.dmv.virginia.gov/safety/crash_data/crash_facts/crash_facts_15.pdf)

sentencing. The remaining 3.4% received a local-responsible (jail) term with a median sentence of approximately 10 days.

Existing data sources do not contain sufficient detail to identify the number of individuals who would be convicted of a felony under § 46.2-868(B) if the proposal were enacted. However, affected offenders may be sentenced similarly to those currently convicted of a Class 6 felony under § 46.2-868(B).

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2016 and FY2017, two offenders were convicted of felony reckless driving with a suspended license resulting in the death of another under § 46.2-868(B). This offense was the primary, or most serious, offense in one of the cases. This offender was sentenced to a state-responsible (prison) term of 2.5 years.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it defines a new reckless driving offense, which is punishable as a Class 6 felony if certain conditions are met, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from the proposal cannot be estimated; however, the impact, if any, is likely to be small.

**Local adult correctional facilities.** Similarly, the proposal may 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.** Convictions for reckless driving under § 46.2-868 are not 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 direct care.** According to the Department of Juvenile Justice, 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.

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**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 836 of the 2017 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.**