



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 510 (Patron – Mullin)

LD#: 18104256

Date: 1/5/2018

Topic: Involuntary manslaughter and maiming

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 adds §§ 18.2-36.3 and 18.2-51.8 to the *Code of Virginia*. Under the proposed § 18.2-36.3, any person who, as a result of driving while in violation of § 46.2-1078.1 (relating to the use of handheld communication devices while operating a motor vehicle) or any substantially similar local ordinance, unintentionally causes the death of another person is guilty of involuntary manslaughter, a Class 5 felony. Additionally, if the conduct of the defendant was so gross, wanton, and culpable as to show a reckless disregard for human life, he is guilty of aggravated involuntary manslaughter, a felony punishable by a term of imprisonment of up to 20 years with a one-year mandatory minimum term.

Similarly, under the proposed § 18.2-51.8, any person who, as a result of driving while in violation of § 46.2-1078.1 in a manner showing a reckless disregard for human life, unintentionally causes the serious bodily injury of another person resulting in permanent and significant physical impairment is guilty of a Class 6 felony.

Analysis:

According to the Virginia Department of Motor Vehicles, there were 1,514 traffic fatalities in the Commonwealth during 2015 and 2016.¹ It is not known how many of these fatalities involved the use of

¹ *Virginia Motor Vehicle Statistics (1981-2016)*, Virginia Department of Motor Vehicles. Accessed November 2, 2017, from <https://www.dmv.virginia.gov/webdoc/pdf/tss03.pdf>.

a handheld communications device. Existing data sources do not contain sufficient detail to identify the number of individuals who would be affected if the proposal were enacted. However, because the proposed felonies carry comparable penalties, affected offenders may be sentenced similarly to those currently convicted under §§ 18.2-36.1 and 18.2-51.4, relating to involuntary vehicular manslaughter or maiming as a result of driving under the influence.

Sentencing Guidelines data for fiscal year (FY) 2016 and FY 2017 indicate that 24 offenders were convicted of aggravated involuntary manslaughter under § 18.2-36.1. This offense was the primary, or most serious, offense in 22 of the cases. All of the offenders received a state-responsible (prison) term with a median sentence of approximately eight years.

Additionally, Sentencing Guidelines data for the same two-year period indicate that 60 offenders were convicted under § 18.2-51.4 for the maiming of another person resulting from driving while intoxicated. This was the primary offense in 42 of the cases. Of these, most offenders (69%) received a state-responsible (prison) term for which the median sentence was three years. Another 26.2% were sentenced to a local-responsible (jail) term with a median sentence of six months. The remaining 4.8% did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates new felony offenses, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. Therefore, the magnitude of the impact on prison beds cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may also increase the local-responsible (jail) bed space needs of the Commonwealth. 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 adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Convictions under the proposed §§ 18.2-36.3 and 18.2-51.8 would not be covered by current sentencing guidelines; however, a conviction under this provision may 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 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 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.

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