Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 381
(Patron – Chafin)

LD#: 18100710 **Date:** 11/07/2017

Topic: Passing a stopped school bus

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 proposed legislation amends § 46.2-859, relating to passing a stopped school bus. Currently, any person who fails to stop his or her vehicle when approaching any school bus which is stopped to take on or discharge children, the elderly, or mentally or physically handicapped persons is guilty of reckless driving, a Class 1 misdemeanor. Under the proposal, any person who violates this section and causes serious bodily injury to another person is guilty of Class 5 felony.

Analysis:

According to fiscal year (FY) 2016 and FY2017 data from the General District Court Traffic Case Management System (CMS), 702 offenders were convicted of misdemeanor reckless driving under § 46.2-859. Of these, the majority (96%) did not receive an active term of incarceration to serve after sentencing. The remaining 4% received a local-responsible (jail) term with a median sentence of approximately 13 days.

Existing data sources do not contain sufficient detail to identify instances in which an offender inflicted serious bodily injury on another person because he failed to stop when approaching a stopped school bus.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the penalty for violating § 46.2-859 from a Class 1 misdemeanor to a Class 5 felony if the offender causes serious bodily injury to another person, the

proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data are not sufficiently detailed to estimate the number of additional felony convictions that may result if the proposal is enacted. Therefore, the magnitude of the impact cannot be quantified.

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 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. As a new felony offense, convictions under the proposed modifications to § 46.2-859 would not be covered by the sentencing guidelines as the primary, or most serious, 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 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.

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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