

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: HB1911S1

House of Origin	<input type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input checked="" type="checkbox"/>	In Committee	<input checked="" type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Peace

3. Committee: Senate Finance Committee

4. Title: Duties of drivers of vehicles approaching stationary vehicles displaying certain warning lights.

- 5. Summary:** The amendment in nature of substitute adds § 46.2-861.1 to the *Code of Virginia* to increase the punishment for drivers who fail to yield the right-of-way or reduce speed when approaching emergency vehicles or public utility vehicles on a highway. Currently, the driver of any vehicle, upon approaching a stationary emergency or public utilities vehicle with flashing, blinking or alternating blue, red or amber lights must change into a lane not adjacent to the stationary vehicle or, if changing lanes is unsafe, the driver must proceed with caution at a safe speed for the conditions. Violation is a traffic infraction for the first offense. Any second or subsequent offense involving a vehicle with flashing, blinking or alternating blue or red lights is a Class 1 misdemeanor. Under the bill, violation of the proposed § 46.2-861.1 would be defined as reckless driving. Under current law, 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. The punishment for anyone convicted of reckless driving who, when he committed the offense, was texting while driving must include a mandatory minimum fine of \$250.

The Senate substitute version of this bill removes language permitting a court to suspend a driver's license for two years, if the violation results in the death of another person.

6. Budget Amendment Necessary: Yes, Item 391.

7. Fiscal Impact Estimates: Preliminary (see Item 8 below).

- 8. Fiscal Implications:** According to the Virginia Criminal Sentencing Commission, because the legislation 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 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. 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 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Additionally, the proposal may increase local jail bed space needs. However, the magnitude of the impact cannot be determined. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. According to the Compensation Board's most recent Jail Cost Report (November 2018), the estimated total state support for local jails averaged \$33.83 per inmate, per day in FY 2017.

According to the Office of the Executive Secretary of the Supreme Court (OES), the proposed legislation could have an impact on the Criminal Fund. The statutory cap on the compensation of court-appointed counsel for representation of a defendant on a misdemeanor charge in district court is \$120. By statute, such counsel is also eligible to request an additional \$120 as a waiver of the cap when the effort expended, the time reasonably necessary for the particular representation, the novelty and difficulty of the issues, or other circumstances warrant such a waiver. The OES believes that there could be offenders who might be eligible for court-appointed counsel if they had been charged with a misdemeanor for which incarceration is a possible punishment under the proposed legislation. However, due to the unknown variables that factor into Criminal Fund fiscal impact, a definitive fiscal impact cannot be determined. An analysis of existing Criminal Fund appropriations and projected Criminal Fund expenditures for the rest of the biennium suggest current appropriations should be sufficient to absorb the anticipated Criminal Fund impact of this bill.

All fines are deposited into the Literary Fund. The revenue that may be generated is indeterminate.

9. Specific Agency or Political Subdivisions Affected: Local jails; Local law enforcement; Courts.

10. Technical Amendment Necessary: No

11. Other Comments: None