

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB157

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

2. Patron: Fowler

3. Committee: House Committee for Courts of Justice

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

5. Summary: Makes a driver's failure to (i) move into a nonadjacent lane on a highway with at least four lanes when approaching a stationary towing vehicle or incident or traffic management vehicle displaying flashing, blinking, or alternating amber lights or (ii) proceed with due caution and maintain a safe speed when passing such a vehicle reckless driving, which is punishable as a Class 1 misdemeanor. Under current law, such offense is a traffic infraction punishable by a fine of not more than \$250, and a failure to so move or proceed with due caution when approaching other such listed vehicles is reckless driving.

6. Budget Amendment Necessary: Yes, Item 402.

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 854 of the Acts of Assembly of 2019 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 currently pays the localities \$4.00 a day for each misdemeanant 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 on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

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 (§19.2-63), 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 persons 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, the fiscal impact on the Criminal Fund cannot be determined at this time.

All fines are deposited into the Literary Fund. The revenue that may be generated cannot be determined at this time.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections; local jails; law enforcement; Courts.

10. Technical Amendment Necessary: No.

11. Other Comments: None.