

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB665

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Petersen

3. Committee: Judiciary

4. Title: Reckless driving; involuntary manslaughter.

5. Summary: The proposed legislation increases the punishment for every person convicted of reckless driving who, when he committed the offense, caused the death of another as the sole and proximate result of his reckless driving. The bill states that such person is guilty of involuntary manslaughter, punishable as a Class 5 felony. Under current law, the punishment is a Class 6 felony.

6. Budget Amendment Necessary: Yes, Item 404.

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

8. Fiscal Implications: Currently, under § 18.2-868, a person convicted of reckless driving who was driving on a revoked or suspended license and caused the death of another is guilty of a Class 6 felony. Under the proposal, there is no requirement that the individual was driving on a revoked or suspended license at the time of the offense for the felony to apply. The proposal also increases the punishment from a Class 6 felony by specifying that such person will be guilty of involuntary manslaughter (a Class 5 felony).

According to data collected and reviewed by the Virginia Criminal Sentencing Commission from the Circuit Court Case Management System (CMS) data for fiscal year (FY) 2016 through FY2021, five offenders were convicted under § 18.2-868 for reckless driving on a revoked/suspended license that caused the death of another person. This was the primary, or most serious, offense in two cases. One offender did not receive an active term of incarceration to serve after sentencing. The other offender received a state- responsible (prison) sentence of one year. The Virginia Criminal Sentencing Commission states that existing data sources do not contain sufficient detail to identify the number of individuals who could be convicted of manslaughter if the proposal were enacted. However, the Virginia Criminal Sentencing Commission states that affected offenders may be sentenced similarly to those currently convicted of manslaughter under § 18.2-35, § 18.2-36, § 18.2-36.1(A), or § 18.2-36.2(A).

By expanding the application and increasing the penalty of an existing felony, the proposal could increase the future state-responsible (prison) bed space needs of the Commonwealth. However, the Virginia Criminal Sentencing Commission states that existing data sources do

not contain sufficient detail to estimate the number of new convictions that may result from the proposal's enactment. Therefore, the fiscal impact cannot be quantified.

For someone convicted of a Class 5 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than ten years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail and \$12.00 a day for each state-responsible prisoner. It also funds a considerable 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 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020. Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state- responsible (prison) bed space cannot be determined. In such cases, Chapter 552, 2021 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Local and regional jails, law enforcement agencies, Courts, Commonwealth's Attorneys, and Public Defenders Offices.

10. Technical Amendment Necessary: No.

11. Other Comments: None.