



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 2036 Floor Amendment in the Nature of a Substitute (Patron prior to substitute – Bulova)

LD#: 25106702

Date: 02/03/2025

Topic: Exhibition driving

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: \$50,000 * • Local Adult Correctional Facilities: Cannot be determined • Adult Community Corrections Programs: Cannot be determined 	<ul style="list-style-type: none"> • Juvenile Direct Care: Cannot be determined** • Juvenile Detention Facilities: Cannot be determined** <p>**Provided by the Department of Juvenile Justice</p>
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* 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 2024, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal amends §§ 46.2-865 through 46.2-867 and adds §46.2-867.1 to expand reckless driving to include exhibition driving, as defined in the bill. Under the proposal, anyone who engages in exhibition driving would be guilty of reckless driving, punishable as a Class 1 misdemeanor, and subject to license suspension. It would also be a Class 1 misdemeanor to aid or abet exhibition driving activity or to purposefully stop or impede traffic for the purpose of a race or exhibition driving. Any person who rides as a passenger during such activity in an area of a motor vehicle that is not intended for passenger transportation would be guilty of a Class 3 misdemeanor. A spectator at such an event also would be guilty of a Class 3 misdemeanor. Currently, it is a Class 1 misdemeanor under § 46.2-866 for any person not engaged in a race to aid or abet in a street race. No penalties currently exist for spectators.

Currently, under § 46.2-865.1, it is a Class 6 felony if street racing results in injury and a felony punishable by 1 to 20 years with a one-year mandatory minimum sentence if the act results in a death. The proposal expands § 46.2-865.1 to include injuries and deaths caused by exhibition driving.¹ The proposal eliminates the existing mandatory minimum sentence.

¹ Under current law, felony offenses affected by the proposal are eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby offenders serve a minimum of 67% of the sentence ordered by the court. The proposed legislation does not change the earned sentence credits available to offenders convicted of these felonies.

Analysis:

Existing data sources do not contain sufficient detail to identify the number of individuals who would be impacted by the proposal. However, affected individuals may be sentenced similarly to offenders currently convicted under statutes related to street racing.

According to General District Court Case Management System (CMS) data for fiscal year (FY) 2023 and FY2024, 126 offenders were convicted of a Class 1 misdemeanor for racing under § 46.2-865. In most of the cases (57.9%), the defendants were not sentenced to an active term of incarceration. For the 42.1% who received a local-responsible (jail) term, the median sentence was 20 days. During the same period, three defendants were convicted of aiding or abetting in a race; only one defendant received a jail sentence (2.0 months).

Based on Circuit Court CMS data for FY2023 and FY2024, two defendants were convicted of racing that resulted in injuries under § 18.2-865.1, but it was not the most serious offense in either event. Four defendants were convicted under the same statute for racing that resulted in a death. All of the defendants received a state-responsible (prison) term and the median sentence in such cases was 3.3 years.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of existing felonies, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Available data are insufficient, however, to identify the number of defendants who may be convicted of a felony due to the proposal or to estimate the number of new state-responsible sentences that may result. Thus, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs, but the magnitude of the impact cannot be quantified.

Adult community corrections programs. Because the proposal could result in additional 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 estimated.

Virginia's Sentencing Guidelines. Felonies defined in § 46.2-865.1 are not covered by the Sentencing Guidelines as the primary (or most serious) offense. Such convictions, however, could augment the Guidelines recommendation as additional offenses if the most serious offense at sentencing is covered by the Guidelines. These felonies are not defined as violent under § 17.1-805(C) for Guidelines purposes. No adjustment to the Guidelines would be 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 2 of the Acts of Assembly of 2024, Special Session I, 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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