

Department of Planning and Budget 2006 Fiscal Impact Statement

1. Bill Number SB578

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

2. Patron McDougle

3. Committee Passed both houses

4. Title Presumption of no bail for person charged with certain sex offenses

5. Summary/Purpose:

Under current law, for persons charged with specified crimes, a magistrate shall presume that they are unlikely to appear for trial or they pose a threat to public safety and, thus, deny bail to such persons. This presumption is rebuttal before a judge. Among the list of offenses for which presumptive denial of bail is applicable is aggravated sexual battery, if the accused had been previously convicted of any of a list of specified sexual assault offenses. The proposed legislation would require that bail be presumptively denied for anyone accused of the offense whether or not the accused had been previously convicted of any of the relevant sexual assault offenses.

6. Fiscal Impact Estimates are: Final. See Item 8.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2006-07	\$210,784	General
2007-08	\$432,520	General
2008-09	\$493,928	General
2009-10	\$537,736	General
2010-11	\$571,184	General
2011-12	\$599,936	General

7. Budget amendment necessary: Yes. Item 60.

8. Fiscal implications:

According to data provided by the Virginia Criminal Sentencing Commission, the proposed legislation would increase the number of persons denied bail and therefore held in jail pending trial. To assist localities with the costs of operating jails, the state, through the Compensation Board, reimburses them \$8.00 per day for each prisoner held in jail pending trial. The amounts shown in Item 6 are the additional per diem payments that it is projected the state will need to make to local governments as a result of the proposed legislation.

In addition to the additional per diem payments, there may be other additional costs resulting from this bill, but it is not possible to estimate them. The primary potential cost would be the need for additional deputies. The state generally funds additional deputies needed by jails because of overcrowding. The projected increase in prisoners being held pending trial could result in overcrowding in one or more jails, creating the need for additional deputies. However, it is not possible to know in which jails the increase in prisoners awaiting trial will occur or whether the increases will indeed result in overcrowding.

The proposed legislation could result in a decrease in the need for state prison beds. This decrease would occur because persons convicted of crimes receive credit toward their sentences for time spent in jail prior to trial. Thus, to the extent that the accused offenders covered by the proposed legislation spend more time in jail before their trials, they would spend less time in prison following their convictions. However, this decrease in the need for prison beds is relatively small, 80 fewer beds by FY 2012, and it is not expected to have a fiscal impact on the Department of Corrections. Because it is projected that there will be more state-responsible inmates than there will be prison beds, the prisons would continue to operate at full capacity after the passage of this legislation.

The legislation has a second enactment clause that stipulates that it shall not become effective unless there was an appropriation of funds to cover its costs. Neither house included any appropriation for the bill in its budget amendments.

9. Specific agency or political subdivisions affected:

Compensation Board
Local and regional jails

10. Technical amendment necessary:

The bill has an enactment clause making it contingent on there being an appropriation of funds to cover its costs in the general appropriation act passed during the 2006 Session of the General Assembly. There was no general appropriation act passed during the 2006 Session. In order for this bill to become effective, this clause needs to be removed. An alternative means of proceeding would be to recommend that the clause be amended to insert the word "Special" after "2006" on line 63. In such a case, the General Assembly would still have to provide the needed appropriation for the legislation to become effective.

11. Other comments: None.

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Document: G:\LEGIS\Fis-06\SB578ER.DOC Dick Hall-Sizemore