

Department of Planning and Budget 2008 Fiscal Impact Statement

1. Bill Number: HB1543

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

2. Patron: Janis

3. Committee: Health, Welfare and Institutions

4. Title: **Health records; surgical complications reporting**

5. Summary: Requires physicians to report complications resulting from elective outpatient surgical procedures. The report shall not contain any identifying information. Willful failure to report shall constitute a Class 1 misdemeanor.

6. Fiscal Impact Estimates: See item #8.

7. Budget Amendment Necessary: Yes.

8. Fiscal Implications: The fiscal impact to of this legislation is unclear. While the bill clearly requires that deaths resulting from elective surgical procedures be reported, it also requires that any patient medical encounter that a physician believes is the result of elective outpatient surgery to be reported. There are over 6,000 physicians in Virginia; however the number of daily patient medical encounters varies significantly. Therefore, further research is needed to reliably estimate the full impact of this bill on the Virginia Department of Health (VDH).

Initial assessments on needs include, but are not limited to: (i) the development and implementation of a data collection system to allow physicians to file these reports electronically; (ii) hiring an undetermined number of staff sufficient to track that all physicians required to file are filing within the allotted 30 days as well as, to report those errant physicians to the local commonwealth's attorneys; (iii) purchasing the necessary equipment for staff use, including computers, printers, copiers, telephones, etc.; and (iv) rental of office space. Since the bill does not exclude these reports from the Freedom of Information Act (FOIA), it is expected that additional staff would be needed to respond to an undetermined number of FOIA requests from personal injury lawyers on behalf of patients.

In addition, the legislation includes language that states that physicians who fail to report complications resulting from elective outpatient surgical procedures will be charged with a Class 1 misdemeanor. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. Therefore, this proposal could result in an increase in the number of persons sentenced to jail. There is not enough information available to reliably estimate how many additional inmates could be sentenced to jail as a result of this proposal. Any increase in jail population will increase costs to the state, which pays the localities \$8.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds most 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 2007); the estimated total state support for local jails averaged \$28.42 per inmate, per day in FY 2006.

9. Specific Agency or Political Subdivisions Affected: Virginia Department of Health, Commonwealth's attorneys and local jails

10. Technical Amendment Necessary: No.

11. Other Comments: No.

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cc: Secretary of Health and Human Resources