

Department of Planning and Budget

2010 Fiscal Impact Statement

1. Bill Number: HB 770

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

2. Patron: Cleveland

3. Committee: Passed both houses

4. Title: Arrests without warrant

5. Summary:

Current law authorizes an officer, under certain conditions, to arrest, without a warrant, a person whom he has probable cause to suspect was operating a watercraft or motor boat while intoxicated and in his presence. The law also authorizes an officer to arrest without a warrant, within three hours of an accident involving a motor vehicle, any person whom the officer has probable cause to suspect of operating the vehicle.

The proposed language would enlarge this authority to allow an officer to arrest without warrant, within three hours of the alleged offense, any person whom the officer has probable cause to suspect of driving a motor vehicle, watercraft, or motorboat while intoxicated, regardless of whether the offense was committed in the officer's presence and without regard to whether an accident was involved.

6. Fiscal Impact Estimates: Final.

6a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2011	\$50,000	General
2012	\$0	
2013	\$0	
2014	\$0	
2015	\$0	
2016	\$0	

7. Budget Amendment Necessary: Yes. Item 380. The conferees did not include funding for this bill in their amendments to the budget bill.

8. Fiscal Implications:

Depending on the number of convictions and the offender's blood alcohol level at the time of the offense, driving while intoxicated can be either a Class 1 misdemeanor or a Class

6 felony. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or 1 to 5 years in prison. Because this proposal could result in an increase in the number of persons arrested for driving while intoxicated, it could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Any increase in jail population will increase costs to the state. The Commonwealth presently 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 2009), the estimated total state support for local jails averaged \$32.66 per inmate, per day in FY 2008.

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 781 of the 2009 Acts of Assembly 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

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 4/8/2010 dpb

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