

Department of Planning and Budget 2011 Fiscal Impact Statement

1. Bill Number: SB 1222

House of Origin	<input type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input checked="" type="checkbox"/>	Enrolled

2. Patron: Barker

3. Committee: Passed both houses

4. Title: Protective orders

5. Summary:

The proposed legislation makes numerous changes to the statutes dealing with protective orders. First, the bill expands the circumstances under which an individual could request a protective order. Under current law, individuals may petition for a protective order in circumstances involving stalking, sexual battery, and criminal offenses resulting in serious bodily injury. The proposed legislation would authorize the issuance of protective orders in situations involving “acts of violence, force, or threat”. That term is defined as “any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury”. It includes, but is not limited to, stalking, criminal sexual assault, or any criminal offense that result in bodily injury, or places one in reasonable apprehension of death, sexual assault, or bodily injury.

The proposed legislation also increases the penalties for violating certain protective orders. Currently, violation of a protective order is a Class 1 misdemeanor. The bill increases the penalties as follows:

- Second violation within five years of a conviction for a prior offense, when either the instant or prior offense was based on an act or threat of violence—mandatory minimum sentence of 60 days in jail.
- Conviction of third or subsequent violation within 20 years of the first conviction, when either the instant or any of the prior offenses were based on an act or threat of violence—Class 6 felony with a mandatory minimum sentence of six months in jail.
- Commission of an assault and battery resulting in serious bodily injury upon a person protected by a protective order—Class 6 felony.
- Violation of protective order by furtively entering home of protected person while such person is present or remaining in the home until the protected person arrives—Class 6 felony.

The legislation also provides that for anyone convicted of violating a protective order and a mandatory minimum sentence is not specified, that person must be sentenced to some period of confinement and not have the entire sentence suspended.

In addition to protective orders, courts may issue preliminary protective orders in cases in which family abuse is alleged. Currently, “family abuse” is defined as “any act involving violence, force, or threat...that results in bodily injury or places one in reasonable apprehension of bodily injury...committed by a person against such person’s family or household member”. “Forceful detention” is specifically included in the definition. The proposed bill modifies the definition to specifically include stalking and criminal sexual assault and apprehension of death or sexual assault. Furthermore, the legislation modifies the conditions that a judge or magistrate may place upon a respondent of a preliminary or emergency protective order to include injury to person or property in addition to acts of family abuse.

6. **Budget Amendment Necessary:** No. The final budget bill adopted by the General Assembly includes an amendment for \$93,767 for the appropriation required by § 30-19.1:4 of the Code of Virginia.

7. **Fiscal Impact Estimates:** Final. See Item 8.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2012	\$93,767	General

8. Fiscal Implications:

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. Therefore, by increasing the penalty for an offense from a Class 1 misdemeanor to a Class 6 felony, this proposal could result in an increase in the number of persons sentenced to jail or prison.

Pursuant to §30-19.1:4 of the Code of Virginia, the Virginia Criminal Sentencing Commission estimates a fiscal impact of \$93,767 (the highest annual cost over the next six years). The amount is based on the projection that the legislation will result in three additional inmates being incarcerated in prison.

The legislation also provides for mandatory sentences in jail, which could result in additional offenders being housed in jails. Because the state reimburses localities for a part of the cost of housing offenders in jail, this legislation could potentially increase those costs of the state. However, the Sentencing Commission projects that this increase in misdemeanor offenders in jails will be largely offset by offenders, who previously would

have been in jails on misdemeanor offenses of violating protective orders, being committed to prison on felony sentences as a result of the legislation.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Compensation Board
Local and regional jails

10. Technical Amendment Necessary: None.

11. Other Comments: This bill is identical to HB 2063, which has also been enrolled.

Date: 3/3/2011

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