

Department of Planning and Budget 2013 Fiscal Impact Statement

1. Bill Number: SB 801

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

2. Patron: Garrett

3. Committee: Senate Courts of Justice

4. Title: Misdemeanor sex offense

5. Summary:

Under current law, the third conviction within a ten-year period for some misdemeanor sex offenses—attempted sexual battery, sexual battery, consensual intercourse with a child, indecent exposure, or peeping—can be charged as a Class 6 felony. The proposed legislation would broaden the list to include federal convictions, convictions in another state or U.S. territory or the District of Columbia for similar offenses. The proposal also clarifies that any combination of two such prior convictions, combined with the present offense, would enable the offender to be charged with a felony.

6. Budget Amendment Necessary: Yes. Item 389.

7. Fiscal Impact Estimates: Preliminary. See Item 8 below.

Expenditure Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Fund</i> |
|--------------------|----------------|-------------|
| | | |
| 2013 | | |
| 2014 | \$50,000 | General |
| 2015 | | |
| 2016 | | |
| 2017 | | |
| 2018 | | |

8. Fiscal Implications:

Although the proposed legislation does not define a new offense nor increase the penalty for the current offense, it does expand the list of offenses that would qualify as prior offenses to include similar convictions in other jurisdictions, thereby possibly increasing the number of offenders who could be convicted of a Class 6 felony. 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, this proposal 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 \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail and \$12.00 a day for each state responsible inmate. It also funds a considerable portion 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 2012), the estimated total state support for local jails averaged \$26.54 per inmate, per day in FY 2011.

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 3 of the 2012 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Compensation Board
Local and regional jails

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 1/2/2013

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