

## Department of Planning and Budget 2014 Fiscal Impact Statement

**1. Bill Number: HB 315**

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

**2. Patron: Kory**

**3. Committee: House Courts of Justice**

**4. Title: Exploitation of incapacitated persons**

**5. Summary:**

Under current law, a person who knows or should know that another person is mentally incapacitated and through the use of the victim's mental incapacity deprives the victim of money or other things of value would be guilty of a Class 1 misdemeanor if the value of the money or property were less than \$200 is a Class 1 misdemeanor. If the value of the money or property were \$200 or more, the offense would be grand larceny, which is punishable by up to 20 years in prison. In addition, there are enhanced penalties for subsequent larceny convictions. For the second misdemeanor conviction, the penalty is 30 days to 12 months in jail; for a third or subsequent conviction, the offense is a Class 6 felony.

Under the proposed legislation, taking money or property belonging to a mentally incapacitated person through the use of their incapacity would be a Class 3 felony, which is punishable by a sentence of 5-20 years in prison.

In addition, the proposed legislation would make the following changes to the existing statute:

1. Refers to "incapacity" rather than "mental incapacity" and modifies the definition of "incapacity" to be a condition "resulting from mental illness, intellectual disability, physical illness or disability, advanced age, or other cause" that would prevent a person from understanding the nature or consequences of a financial transaction.
2. Provides for the lawful seizure and forfeiture of personal property used in conjunction with the financial exploitation of incapacitated persons.

**6. Budget Amendment Necessary: Yes. Item 385.**

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

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2015	\$50,000	General
2016		
2017		
2018		
2019		
2020		

**8. Fiscal Implications:**

Because the proposed legislation increases the penalty for the offense, it could result in longer sentences for offenders and, consequently, the need for more prison beds.

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 806 of the 2013 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

**10. Technical Amendment Necessary:** None.

**11. Other Comments:** Similar to HB 471.

**Date:** 1/20/2014

**Document:** G:\LEGIS\fis-14\hb315.docx Dick Hall-Sizemore