

## Department of Planning and Budget 2016 Fiscal Impact Statement

**1. Bill Number:** SB324

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

**2. Patron:** Ebbin

**3. Committee:** Commerce and Labor

**4. Title:** Willful failure to pay wages.

**5. Summary:** Provides that an employer who willfully and with intent to defraud fails or refuses to pay wages to more than one employee is guilty of a Class 6 felony with regard to each such employee if the value of the wages earned and not paid to each such employee is \$10,000 or more. The measure also allows wages owed to more than one employee to be aggregated in determining whether a willful failure to pay wages is a misdemeanor or a felony.

**6. Budget Amendment Necessary:** Yes. Item 394 SB30 (Department of Corrections).

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

**8. Fiscal Implications:** This bill will create additional Class 6 felonies. For someone convicted of a Class 6 felony, a judge has the option of sentencing up to one year in jail, or one to five years in prison. This bill 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. The Commonwealth also funds a considerable portion of the jails' operating costs, e.g., correctional officers. The state's share of these costs are on a per prisoner, per day basis and varies from locality to locality. According to the Compensation Board's most recent Jail Cost Report (November 2015), the estimated total state support for local jails averaged \$32.24 per inmate, per day in FY 2014.

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 665 of the 2015 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

It is anticipated that any expenditure impact to the Department of Labor and Industry can be absorbed with existing resources. The Labor and Employment Law Division in the

Department of Labor and Industry administers and enforces state laws governing payment of wages, minimum wage, child labor, the right to work and certain other provisions related to the workplace and has the resources available to make criminal referrals of this type of case.

**9. Specific Agency or Political Subdivisions Affected:** Department of Corrections; Department of Labor and Industry; Office of Attorney General; court system.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** This bill is a companion to HB1150, as introduced.