

## Department of Planning and Budget 2017 Fiscal Impact Statement

**1. Bill Number: HB 1403**

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

**2. Patron: Bell, Richard**

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

**4. Title: Driving while intoxicated**

**5. Summary:**

Under current law, a third conviction within a ten-year period of driving while intoxicated is a Class 6 felony, with a mandatory minimum sentence of 90 days. If the third conviction is within a five-year period, the mandatory minimum sentence shall be six months. A fourth conviction within a ten-year period shall be subject to a mandatory minimum sentence of one year.

The proposed legislation would expand the law to include any offenses occurring within a 20-year time period.

**6. Budget Amendment Necessary: Yes. Item 394.**

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

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2018	\$50,000	General
2019	\$0	
2020	\$0	
2021	\$0	
2022	\$0	
2023	\$0	

**8. Fiscal Implications:**

The proposed legislation would expand the time period in which a third conviction of DWI would qualify as a Class 6 felony, thereby possibly increasing the number of persons convicted of a 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. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, 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 2016), the estimated total state support for local jails averaged \$32.82 per inmate, per day in FY 2015.

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 780 of the 2016 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.