

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: HB 1788

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

2. Patron: Yancey

3. Committee: House Courts of Justice

4. Title: Abuse and exploitation of incapacitated adults

5. Summary:

The proposed legislation would make the following changes in the current laws concerning incapacitated adults:

- Financial exploitation—Currently, the law prohibits anyone from using another person’s mental incapacity to take or obtain anything of value from that person. The offense is defined as larceny, which is a Class 1 misdemeanor if the value of the thing taken is less than \$200. If the value is more \$200 or more, the offense is a felony punishable by one to 20 years in prison.

The proposed legislation would expand the definition of “incapacity” to include any condition resulting from mental illness, intellectual disability, physical illness or disability, advanced age, or other cause that prevents a person from understanding the nature or consequences of the transaction of disposition of money or other thing of value.

- Abuse and neglect—Under current law, abuse or neglect of an incapacitated adult that does not result in serious bodily injury or disease is a Class 1 misdemeanor. A second offense is a Class 6 felony. Abuse or neglect that results in serious bodily injury or disease is a Class 4 felony. “Serious bodily injury” is defined as including disfigurement, a fracture, a severe burn or laceration, mutilation, maiming, or life-threatening internal injuries or conditions.

The proposed legislation would restrict the Class 1 misdemeanor offense of abuse and neglect to actions that did not result in any bodily injury. If the abuse or neglect resulting in any bodily injury other than “serious bodily injury,” the offense would be a Class 6 felony.

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:

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, 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: Identical to SB 1420.

Date: 1/30/2017