

## Department of Planning and Budget 2017 Fiscal Impact Statement

**1. Bill Number:** HB2065

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

**2. Patron:** Mullin

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

**4. Title:** Sexual battery; surprise; penalty.

**5. Summary:** Current law states that a person can be found guilty of sexual battery, a Class 1 misdemeanor, if the sexual battery was committed against the will of the witness by force, threat, intimidation, or ruse. The proposal expands the definition of sexual battery to include instances in which an individual sexually abuses another by surprise.

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

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

**8. Fiscal Implications:** The number of sexual battery crimes may increase as a result of this bill. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. 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 misdemeanant or otherwise local responsible prisoner held in a jail. It also funds most 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.

Because the penalty for sexual battery crimes increases to a Class 6 felony when the offender has previously been convicted of two or more of the listed offenses within ten years of the current offense, the Virginia Criminal Sentencing Commission has determined that this bill could increase the future state responsible (prison) bed space needs of the Commonwealth. The impact of the bill on state-responsible (prison) bed space cannot be determined due to insufficient data. In such cases, Chapter 780 of the 2016 Acts of Assembly, requires that a minimum impact of \$50,000 be assigned to the bill. Because the number of cases cannot be quantified, the impact on community corrections programs, juvenile direct care, and juvenile detention facilities also cannot be determined.

**9. Specific Agency or Political Subdivisions Affected:** Local and regional jails, Department of Corrections, and the Department of Juvenile Justice

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None