

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB1237

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

2. Patron: Delaney

3. Committee: Courts of Justice

4. Title: First offense assault and battery against a family or household member; enhanced penalty.

5. Summary: The proposal legislation amends current law relating to assault and battery against a family or household member. Currently, when an adult is charged with his or her first offense of assault against a family or household member or with a first offense of assault and battery against a family or household member, the person may be placed on probation. If the individual completes the terms and conditions of his probation, the court may dismiss the charge. Assault and assault and battery of a family or household member are punishable as Class 1 misdemeanors. However, the penalty for assault and battery of a family or household member is elevated to a Class 6 felony if it is alleged in the warrant, petition, information or indictment that the offender has been previously convicted of two specified offenses against a family or household member.

The proposed legislation provides that any instance of assault or assault and battery against a family or household member for which disposition was deferred, the list of prior offenses that would elevate a third offense of assault and battery against a family or household member to a Class 6 felony must be included. As a result, the bill expands the circumstances under which the enhanced penalty for this offense would apply.

6. Budget Amendment Necessary: Yes. Item 391.

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

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2019	\$50,000	General
2020	\$0	
2021	\$0	
2022	\$0	
2023	\$0	
2024	\$0	
2025	\$0	

- 8. Fiscal Implications:** The proposed legislation has the potential to increase the number of offenders convicted of a third qualifying offense, which would then be punishable as a Class 6 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 2017), the estimated total state support for local jails averaged \$34.58 per inmate, per day in FY 2016.

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 836 of the 2017 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:** This bill is similar to HB661.