

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB266

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

2. Patron: Turpin

3. Committee: House Courts of Justice

4. Title: Hate crimes against persons due to gender, gender identity, sexual orientation.

5. Summary: Includes within the definition of "hate crime" a criminal act involving assault, assault and battery, or trespass with intent to damage committed against a person because of sexual orientation, gender, or gender identification. The bill requires reporting of crimes against such persons to the central repository maintained by Virginia State Police. Currently, cases are only considered hate crimes if the victim is selected for their race, religion, color, or national origin.

6. Budget Amendment Necessary: No.

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

8. Fiscal Impact Implications: The Department of State Police (VSP) maintains a central repository for the collection and analysis of hate crimes (Incident Based Reporting system) in Virginia. According to VSP, the proposed legislation will not have any fiscal impact on their operations.

The bill would also amend § 18.2-57 (assault and battery) and §18.2-121 (trespassing with the intent to damage property) by adding crimes motivated by animosity based sexual orientation, gender, or gender identification to certain offenses classified as hate crimes.

Under current law, persons convicted of hate-motivated simple assault are given a mandatory minimum 30-day term of confinement and convicted of a Class 1 misdemeanor; if the complainant suffers bodily injury, the penalty is a Class 6 felony and a 30-day mandatory minimum sentence. Trespassing with the intent to damage property is a Class 1 misdemeanor. However, the penalty is increased to a Class 6 felony with a 30-day mandatory minimum sentence if the victim is selected because of his or her race, religious conviction, color, or national origin.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. Anyone convicted of a Class 6 felony may be given a sentence of up to one year in jail, or 1 to 5 years in prison. 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 large 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. Additionally, according to the Department of Juvenile Justice (DJJ), the impact of this legislation on that agency cannot be determined.

8. Specific Agency or Political Subdivisions Affected: Department of State Police, Department of Corrections, and Department of Juvenile Justice.

9. Technical Amendment Necessary: No.

10. Other Comments: None.