

## Department of Planning and Budget

### 2018 Fiscal Impact Statement

**1. Bill Number:** HB757

|                 |                                     |              |                          |            |                          |           |
|-----------------|-------------------------------------|--------------|--------------------------|------------|--------------------------|-----------|
| House of Origin | <input checked="" type="checkbox"/> | Introduced   | <input type="checkbox"/> | Substitute | <input type="checkbox"/> | Engrossed |
| Second House    | <input type="checkbox"/>            | In Committee | <input type="checkbox"/> | Substitute | <input type="checkbox"/> | Enrolled  |

**2. Patron:** Leftwich

**3. Committee:** Courts of Justice

**4. Title:** Sex offenders in emergency shelters; notification registration.

- 5. Summary:** Requires any registered sex offender who enters an emergency shelter to notify a member of the shelter's security staff of his presence as soon as practicable after entry. This provision applies to any place or facility designated by the Commonwealth or any political subdivision that is being operated in response to a declared state or local emergency. The bill allows the shelter's staff access to publicly-available information in the Sex Offender and Crimes Against Minors Registry regarding such person and allows the use of such information to make reasonable accommodations to ensure the safety of everyone in the shelter. The bill prohibits denying entry solely on the basis of status as a sex offender unless such entry is otherwise prohibited by law. The bill also requires that the offender register with the local law-enforcement agency where the shelter is located within three days of entering the shelter if he continues to reside in the shelter and requires him to report any change of residence in accordance with the registration procedures set forth in the Sex Offender and Crimes Against Minors Registry after leaving the shelter.

Current law provides that anyone convicted of a qualifying offense that is not defined as sexually violent who knowingly fails to register or reregister, or who knowingly provides materially false information to the Sex Offender and Crimes Against Minors Registry is guilty of a Class 1 misdemeanor. A second or subsequent conviction for an offense is a Class 6 felony.

Current law also provides that any person convicted of a sexually violent offense who knowingly fails to register or reregister, or who knowingly provides materially false information to the Sex Offender and Crimes Against Minors Registry is guilty of a Class 6 felony. A second or subsequent conviction for an offense is a Class 5 felony.

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

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

**7a. Expenditure Impact:**

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

- 8. Fiscal Implications:** Currently, the Department of Social Services (VDSS), which is the lead agency for establishing and managing state shelters, follows protocols set in section 5.3 of the State Managed Shelter Plan when interacting with registered sex offenders. These procedures already require any individual who is listed in the Virginia Sex Offender and Crimes Against Minors Registry to notify the shelter management of his/her registry status upon entering a state managed shelter. The current protocols also allow VDSS to access the Virginia Sex Offender and Crimes Against Minors Registry and the National Registry for Sex Offenders to determine if an evacuee's name is a match in either Registry. However, although shelter security staff will be made aware of any offenders in the shelters and are required to maintain heightened observation, the protocol does not require registered offenders to be segregated from the general population.

The VDSS asserts that without further defining "*reasonable accommodations*" required by the bill, it is not possible to assess the impact this provision would have on its shelter operations. Specifically, if the term *reasonable accommodations* is intended to require the segregation of sex offenders from the general population, this may require duplication of facilities, services and/or staffing in order to serve any sex offenders that seek emergency shelter in a state managed shelter facility. However, the exact impact of this interpretation cannot be assessed at this time.

The provisions of this bill have the potential to increase the number of offenders who are prosecuted for failing to register or reregister information required by the Sex Offender and Crimes Against Minors Registry Act. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison. Punishment for failing to provide updated information depends on the number of previous Registry violations for which the offender has been convicted and whether the qualifying offense was defined as sexually violent.

The first violation when the offender is not defined as sexually violent is punishable as a Class 1 misdemeanor. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail.

Subsequent violations when the offender is not defined as sexually violent or the first violation when the offender is defined as sexually violent are 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 one to five years in prison.

Finally, subsequent violations when the offender is defined as sexually violent are punishable as a Class 5 felony. For someone convicted of a Class 5 felony, a judge has the option of sentencing him to up to one year in jail, or one to 10 years in 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:** Virginia Department of Social Services, Department of Corrections, Local and Regional jails.

**10. Technical Amendment Necessary:** None.

**11. Other Comments:** This bill is similar to HB187, SB24 and SB49.