

## Department of Planning and Budget

### 2018 Fiscal Impact Statement

**1. Bill Number:** SB398

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

**2. Patron:** McDougale

**3. Committee:** Courts of Justice

**4. Title:** Driving while intoxicated; fourth offense; penalty.

**5. Summary:** Current law provides that any person convicted of a fourth or subsequent offense of driving while intoxicated committed within a 10-year period is guilty of a Class 6 felony and imposes a mandatory minimum imprisonment sentence of one year and a mandatory minimum fine of \$1,000. The proposed legislation increases the penalty for a fourth or subsequent offense to a Class 4 felony. The legislation maintains the mandatory minimum sentence and fine.

**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:** For someone convicted of a Class 4 felony, a judge has the option of sentencing him from two to ten years in prison. The proposed legislation maintains the requirement for a mandatory minimum sentencing term of one year. 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:** None