

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: SB45S1

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

2. Patron: Favola

3. Committee: Courts of Justice

4. Title: Hate crimes against persons due to disability.

5. Summary: The legislation expands the definition of hate crime to add crimes motivated by animosity based on disability to certain offenses classified as “hate crimes.” The bill also provides that a person who is subjected to acts of (i) intimidation or harassment, (ii) violence, or (iii) vandalism to his real or personal property, where such act is motivated by disability, may bring a civil action to recover damages. The bill also provides that a provider or user of an interactive computer service on the internet is not liable for any action voluntarily taken if it is done in good faith to restrict access to material that the provider or user considers to be intended to incite hatred on the basis of disability.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications: Currently, 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 a fiscal impact on their operations.

The bill would also amend § 18.2-57 (relating to assault and battery) and § 18.2-121 (relating to trespassing with the intent to damage property) by adding crimes motivated by animosity based on disability 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. Currently, trespassing with the intent to damage property is a Class I misdemeanor, however, if the penalty is increased to Class 6 felony with a 30-day mandatory minimum sentence if the victim is selected due race, religious convictions, 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.

9. Specific Agency or Political Subdivisions Affected: Department of State Police, Department of Corrections, and Department of Juvenile Justice, Courts, Commonwealth's Attorneys.

10. Technical Amendment Necessary: No.

11. Other Comments: None.