

## Department of Planning and Budget 2019 Fiscal Impact Statement

**1. Bill Number:** HB2472

|                 |                                     |              |                          |            |                          |           |
|-----------------|-------------------------------------|--------------|--------------------------|------------|--------------------------|-----------|
| 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:** Plum

**3. Committee:** Courts of Justice

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

**5. Summary:** Includes within the definition of “hate crime” a criminal act involving assault, assault and battery, or trespass with the intent to damage committed against a person because of gender, disability, gender identity, or sexual orientation. The bill requires reporting of crimes against such persons to the central repository maintained by Virginia State Police. The bill also permits the victims of such crimes to file an action for injunctive relief or civil damages. It also provides that no provider or user of an interactive computer service on the Internet shall be held liable for any actions voluntarily taken by it in good faith to restrict access to material the provide or user considers to be intended to incite hatred on the basis of gender, disability, gender identity, or sexual orientation. 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 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 bill is not expected to have a fiscal impact on agency operations.

This bill expands the applicability of existing felonies and misdemeanors. Currently, simple assault that is classified as a hate crime is punishable as a Class 1 misdemeanor and requires a term of confinement of at least six months, with a 30-day mandatory minimum sentence. Both assault and battery and entering property to damage, when classified as a hate crime, are punishable as a Class 6 felony and require a term of confinement of at least six months, with a 30-day mandatory minimum sentence. Therefore, the proposal may increase the future state responsible (prison) bed space needs of the Commonwealth. It may also increase the number of persons required to serve sentences in local and regional jails.

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. 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 2018), the estimated total state support for local jails averaged \$33.83 per inmate, per day in FY 2017.

In the six most recent fiscal years, no offender convicted of a hate crime felony received a state-responsible (prison) sentence. Therefore, this proposal is not expected to have an impact on the prison bed space needs of the Commonwealth during the six-year window specified by § 30-19.1:4 for legislative impact statements. According to the Virginia Criminal Sentencing Commission, the impact on the Department of Juvenile Justice (DJJ) and local correctional facilities as a result of the provisions of this bill cannot be determined. The Commission did note that any impact on local correctional facilities is likely to be small.

**9. Specific Agency or Political Subdivisions Affected:** Department of State Police, Department of Corrections, Local correctional facilities, Department of Juvenile Justice

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.