

Department of Planning and Budget
2020 Special Session I - Fiscal Impact Statement

1. Bill Number: HB5069H1

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

2. Patron: Carroll Foy

3. Committee: Appropriations

4. Title: Law-enforcement officers; prohibition on the use of neck restraints; penalty.

5. Summary: Provides that it is a Class 6 felony for a law enforcement officer to use a neck restraint, as defined in the bill, in the performance of his official duties. The bill also provides that a violation of this section constitutes a separate and distinct offence, and if the acts or activities violating this section also violate another provision of law, a prosecution pursuant to this section shall not prohibit or bar any prosecution or proceeding under such other provision or the imposition of any penalties provided for thereby.

6. Budget Amendment Necessary: Yes. Item 402.

7. Fiscal Impact Estimates: Preliminary. See below.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020			
2021	\$50,000	0	General
2022			
2023			
2024			
2025			
2026			

8. Fiscal Implications: The proposed legislation makes it a Class 6 felony for a law enforcement officer to use a neck restraint, as defined in the bill, in the performance of his official duties. The bill also provides that a violation of this section constitutes a separate and distinct offence, and if the acts or activities violating this section also violate another provision of law, a prosecution pursuant to this section shall not prohibit or bar any prosecution or proceeding under such other provision or the imposition of any penalties provided for thereby.

Based upon FY 2018 and FY 2019 Sentencing Guideline data obtained by the Virginia Criminal Sentencing Commission, 857 offenders were convicted under § 18.2-51 (unlawful wounding). In 726 of these cases, this was the primary (or most serious offense). More than one-third (36.1%) of these offenders received a state-responsible (prison) term, for which the

median sentence was 1.6 years. For the 37.7% who received a local-responsible (jail) term, the median sentence was six months. The remaining 26.6% of offenders did not receive an active incarceration term after sentencing.

The proposed legislation creates a new felony offense. Therefore, the bill may increase future state prison bed needs in the Commonwealth. However, available data is not sufficient to estimate the number of cases under the proposed legislation or estimate the overall impact. Accordingly, the magnitude of the impact on prison bed space cannot be determined at this time.

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 1289, 2020 Acts of Assembly, requires that a minimum impact of \$50,000 be assigned to the bill.

Any potential fiscal impact on local and regional jails or the Department of Juvenile Justice (DJJ) is indeterminate at this time.

The proposed legislation may also increase the local-responsible jail bed space needs, however the extent of the impact cannot be determined at this time using existing data. However, any increase in jail population will increase costs to the state. The Commonwealth currently 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 prisoner. 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 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Local and regional jails, Courts, Commonwealth's Attorneys, Public Defenders Offices.

10. Technical Amendment Necessary: No.

11. Other Comments: None.