

Department of Planning and Budget 2009 Fiscal Impact Statement

1. Bill Number: HB2136

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

2. Patron: Miller, J.H.

3. Committee: Pending

4. Title: **Misdemeanor arrest or summons at discretion of law-enforcement officer.**

5. Summary: Gives a law-enforcement officer the choice of issuing a summons and releasing the person or arresting him for Class 1 and 2 misdemeanors. Under current law, the law-enforcement officer must release the person on a summons for most Class 1 and 2 misdemeanors unless the person fails to stop the unlawful act or indicates that he will not appear as directed in the summons. The bill also requires the officer to arrest the person if he fails to stop the unlawful act; currently arrest is discretionary when the person fails to stop the unlawful act. The penalties for a Class 1 misdemeanor is a jail sentence up to 12 months and a fine up to a \$2,500. The penalties for a Class 2 misdemeanor is a jail sentence up to six months and a fine up to a \$1,000.

6. Fiscal Impact Estimates: *Preliminary.*

7. Budget Amendment Necessary: No.

8. Fiscal Implications: Although insufficient data exists to determine the fiscal impact due to the legislation at this time, the legislation could result in an increase in the jail population since officers would have the discretion of making additional arrests. Any increase in jail population will increase costs to the state. The Commonwealth pays the localities \$8.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds most 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 FY2007 Jail Cost Report (November 1, 2008), the estimated total state support for local jails averaged \$28.77 per inmate, per day in FY 2007.

9. Specific Agency or Political Subdivisions Affected: Local and regional jails, State Compensation Board, law enforcement agencies statewide, general district courts.

10. Technical Amendment Necessary: No

11. Other Comments: None.

Date: 1/19/2009 dpb/jgc

Document: G:\2009\EFIS\Posted\HB2136.DOC