

## Department of Planning and Budget 2017 Fiscal Impact Statement

**1. Bill Number:** HB1791

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

**2. Patron:**    Lingamfelter

**3. Committee:** Committee for Courts of Justice

**4. Title:**    Conspiracy; incitement, etc., to riot; public safety personnel; penalty.

**5. Summary:** The bill increases the penalty for conspiring to cause or produce a riot or directing, inciting, or soliciting others to participate in a riot to acts of force or violence when these acts are against certain public safety personnel. Currently, a violation of this statute is a Class 5 felony, which is punishable by 1 to 10 years of imprisonment. The bill would raise this to a Class 3 felony, which is punishable by 5 to 20 years of imprisonment if an individual conspires to cause or incites, etc., a riot against a law-enforcement officer, firefighter, emergency medical services personnel engaged in the performance of his public duties anywhere in the Commonwealth, or a member of the Virginia National Guard or Virginia Defense Force.

**6. Budget Amendment Necessary:** No

**7. Fiscal Impact Estimates:** Indeterminate, see Item 8 below.

**8. Fiscal Implications:** According to the fiscal impact statement issued by the Virginia Criminal Sentencing Commission, existing databases do not provide sufficient detail to determine the number of cases that would be affected by the proposal.

In the most recent six-year period, only two offenders were convicted of a Class 5 felony under this statute. Both offenders received local-responsible (jail) sentences of six months. Therefore, the bill is not expected to have an impact on the prison bed space needs of the Commonwealth during the six-year projection window as specified by §30-19.1:4 for legislative impact statements.

Since judges currently have the option of sentencing an offender convicted of a felony for causing or producing a riot or directing, inciting, or soliciting others to participate in a riot to a local jail, raising the penalty for this offense from a Class 5 felony to a Class 3 felony is not expected to increase jail bed space needs. 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 2016), the estimated total state support for local jails averaged \$32.82 per inmate, per day in FY 2015.

**9. Specific Agency or Political Subdivisions Affected:** Compensation Board, and state and local law-enforcement agencies.

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None