

Department of Planning and Budget 2016 Fiscal Impact Statement

1. Bill Number: HB 765

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

2. Patron: Gilbert

3. Committee: Reported from committee

4. Title: Assault and battery against family member

5. Summary:

For a person charged with a first offense of assault and battery against a family or household member, the court may defer the proceedings without a finding of guilt and place the person on probation for at least two years, under conditions specified by the court. Upon fulfillment of the terms and conditions of the court order, the court shall discharge the person and dismiss the proceedings against him. Under current law, the discharge and dismissal without adjudication of guilt is considered a conviction only for the purposes of not allowing a defendant to use these provisions of law more than once.

First convictions of assault and battery of a family or household member and of stalking are Class 1 misdemeanors; second offenses in certain circumstances are Class 6 felonies. The proposed legislation would provide that a dismissal and discharge without an adjudication of guilt of a charge of assault and battery against a family or household member shall be treated as a prior conviction for persons subsequently charged with assault of a family or household member or for stalking, thereby making the current offense a possible Class 6 felony.

6. Budget Amendment Necessary: Yes. Item 394.

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

Expenditure Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Fund</i> |
|--------------------|----------------|-------------|
| | | |
| 2017 | \$50,000 | General |
| 2018 | \$0 | |
| 2019 | \$0 | |
| 2020 | \$0 | |
| 2021 | \$0 | |
| 2022 | \$0 | |

8. Fiscal Implications:

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or 1 to 5 years in prison. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

According to the Virginia Criminal Sentencing Commission, not enough information is 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 the majority of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. According to the Compensation Board's most recent Jail Cost Report (November 2015), the estimated total state support for local jails averaged \$32.24 per inmate, per day in FY 2014.

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 665 of the 2015 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Compensation Board
Local and regional jails.

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 2/11/2016

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