

Department of Planning and Budget

2019 Special Session I Fiscal Impact Statement

1. Bill Number: HB4030

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: Gilbert

3. Committee: House Committee for Courts of Justice

4. Title: Assault and battery against a family or household member; prior conviction; mandatory minimum term of confinement; penalty.

5. Summary: The proposal would require that the penalty for a misdemeanor assault and battery against a family or household member include a mandatory minimum term of confinement of 60 days if it is alleged that the offender has been previously convicted of a single offense, as specified, against a family or household member.

6. Budget Amendment Necessary: None.

7. Fiscal Impact Estimates: Preliminary (see Item 8 below).

8. Fiscal Implications: Currently, any person who commits an assault and battery against a family or household member is guilty of a Class 1 misdemeanor. Under the proposed legislation, a conviction for assault and battery against a family or household member where it is alleged in the warrant, petition, information, or indictment on which a person is convicted that such person has been previously convicted of an offense that occurred within a period of 10 years of the instant offense against a family or household member of (i) assault and battery against a family or household member, (ii) malicious wounding or unlawful wounding, (iii) aggravated malicious wounding, (iv) malicious bodily injury by means of a substance, (v) strangulation, or (vi) an offense under the law of any other jurisdiction that has the same elements of any of the offenses such person is guilty of a Class 1 misdemeanor and the sentence of such person shall include a mandatory minimum term of confinement of 60 days.

According to the Virginia Criminal Sentencing Commission, the proposed legislation is expected to increase the need for local-responsible (jail) beds. The impact on local-responsible (jail) beds is estimated to be 39 beds by December 2025 (state costs: \$484,725; local costs: \$709,708). According to the Virginia Criminal Sentencing Commission, during FY2017 and FY2018, a total of 11,149 offenders were convicted of a Class 1 misdemeanor under § 18.2-57.2 as the primary, or most serious, offense, in General District Court, Juvenile and Domestic Relations Court, or Circuit Court. The Virginia Criminal Sentencing Commission further states that examining court data for FY2009 through FY2018 reveals that 1,513 of these offenders had one prior misdemeanor conviction for the same offense, all

of which would be subject to the mandatory minimum term of confinement if § 18.2-57.2 were amended as proposed.

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

The Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the *Code of Virginia*, that the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities. The impact on the Department of Juvenile Justice and local and regional jails could not be determined.

9. Specific Agency or Political Subdivisions Affected: Local jails; Courts, and Law Enforcement agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.