

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB42ER

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

2. Patron: DeSteph, B.

3. Committee: Passed both houses

4. Title: Aggravated sexual battery; penalty.

5. Summary: The bill amends §18.2-67.3 related to aggravated sexual battery and provides that an accused is guilty of aggravated sexual assaults if the offense is not a recognized form of treatment in the profession, and is committed, without the express consent of the patient, by (i) a massage therapist, or a person purporting to be a massage therapist, during an actual or purported practice of massage therapy, as those terms are defined in §54.1-3000; (ii) a person practicing or purporting to practice the healing arts, during an actual or purported practice of the healing arts, as those terms are defined in §§ 54.1-2900 and 54.1-2903; or, (iii) a physical therapist, or a person purporting to be a physical therapist, during an actual or purported practice of physical therapy, as those terms are defined in §54.1-3473.

A conviction under §18.2-67.3 (aggravated sexual battery) is punishable by confinement in a state correctional facility for a term of not less than one nor more than 20 years and by a fine of not more than \$100,000.

6. Budget Amendment Necessary: Yes, Item 402

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

8. Fiscal Implications: The VCSC FIS reported that there were 297 persons sentenced for aggravated sexual battery in FY 2018 and FY 2019. Of these, 253 were sentenced to prison with a median sentence of 4.8 years. Approximately 25 offenders received a local-responsible (jail) term with a median sentence of three months. The remaining 19 offenders did not receive an active term of incarceration to serve after sentencing. However, although the bill expands the applicability of existing felony, which is punishable by term of imprisonment in a state correctional facility, the number of additional felony convictions that may result from the proposed legislation, and the net effect on sentences for those offenders, cannot be determined at this time. Therefore, pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the 2019 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

The impact on the Department of Juvenile Justice cannot be determined at this time.

9. Specific Agency or Political Subdivisions Affected: Courts, Commonwealth's Attorneys, Department of Corrections, local correctional facilities.

10. Technical Amendment Necessary: No

11. Other Comments: None