

Department of Planning and Budget
2020 Special Session I - Fiscal Impact Statement

1. Bill Number: HB5138

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: Carter

3. Committee: Committee Referral Pending

4. Title: Intentional injury to property or a monument or memorial; penalty.

5. Summary: Under current law, if any person who is not the owner of such property unlawfully breaks down, destroys, defaces, damages, or removes without the intent to steal any monument or memorial for war veterans, any monument erected to mark the site of any engagement fought during the Civil War, or any memorial to designate the boundaries of any city, town, tract of land, or any tree marked for that purpose he is guilty of (i) a Class 1 misdemeanor if the value of or damage to the property, memorial, or monument is less than \$1,000 or (ii) a Class 6 felony if the value of or damage to the property, memorial, or monument is \$1,000 or more. This bill removes the Class 6 felony penalty and makes the offense a Class 1 misdemeanor regardless of the value of the damage.

6. Budget Amendment Necessary: No

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

8. Fiscal Implications: This bill reduces the charge for intentionally injuring, as described in § 18.2-137 (Injuring, etc., any property or a monument or memorial; penalties), certain monuments or memorials and causing damage valued at \$1,000 or more from a Class 6 felony to a Class 1 misdemeanor.

According to FY2018 and FY2019 Sentencing Guidelines data, 407 offenders were convicted of a Class 6 felony for damage/destruction of any property or monument, \$1,000 or more, in violation of § 18.2-137(B), during the two-year period. This charge was the primary, or most serious, offense in 167 cases. While 40.7% of these offenders did not receive an active term of incarceration to serve after sentencing, 46.1% were sentenced to local-responsible (jail) terms for which the median sentence length was 6.0 months. For the remaining 13.2% of offenders sentenced to serve a state-responsible (prison) term, the median sentence length was 1.4 years.

The proposed legislation is expected to reduce the number of offenders who would be sentenced to state prison bed needs, as offenders convicted of Class 1 misdemeanor and sentences with active terms of incarceration would be sentenced to local jails.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Local and regional jails, Department of Juvenile Justice, Courts, Commonwealth's Attorneys, Public Defenders Office

10. Technical Amendment Necessary: No

11. Other Comments: None