

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

1. Bill Number: SB5074

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: DeSteph

3. Committee: Senate Committee on the Judiciary

4. Title: Emergency medical services and equipment at the site of a riot or unlawful assembly; penalty.

5. Summary: The proposed bill makes it a Class 6 felony for any person to damage the operation of any equipment or apparatus used for fighting fires or for protecting property or human life by a fire company or fire department or any emergency medical services vehicle at the site of a riot or unlawful assembly. The bill also makes it a Class 6 felony for any person to unreasonably or unnecessarily obstruct the delivery of emergency medical services by emergency medical services agency personnel at the site of a riot or unlawful assembly.

6. Budget Amendment Necessary: Yes. Item 402

7. Fiscal Impact Estimates: Preliminary (Item #8)

8. Fiscal Implications: The proposed bill amends §18.2-151.1 (Injuring, destroying, removing, or tampering with firefighting equipment; penalty), and §18.2-414.1 (obstructing emergency medical services agency personnel).

Currently, under § 18.2-151.1, a “person who injures, destroys, removes, tampers with, or otherwise interferes with the operation of (i) any equipment or apparatus used for fighting fires or for protecting property or human life by a fire company or fire department...or (ii) any emergency medical services vehicle...intending to temporarily or permanently prevent the useful operation of such equipment or apparatus” is guilty of a Class 1 misdemeanor. Under the proposed bill, any such offense would be a Class 6 felony if the violation occurs at the site of a riot or unlawful assembly.

Under § 18.2-414.1, it is a Class 2 misdemeanor to obstruct emergency medical services agency personnel in the performance of their mission. The proposed bill would create a Class 6 felony for this offense if the violation occurs at the site of a riot or unlawful assembly.

According to General District Court (GDC) Case Management System (CMS) data for fiscal year (FY) 2014 through FY2019, five offenders were convicted of a Class 1 misdemeanor under § 18.2-151.1. Three did not receive an active term of incarceration to serve after sentencing. For the two offenders given a local-responsible (jail) sentence, the average sentence length was 20 days.

According to GDC CMS data for FY2014 through FY2019, eight offenders were convicted of a Class 2 misdemeanor under § 18.2-414.1. This offense was the primary, or most serious, offense for six offenders. Of these six, five did not receive an active term of incarceration to serve after sentencing, while the remaining offender was sentenced to serve five days in jail.

While existing data cannot estimate the number of §§ 18.2-151.1 and 18.2-414.1 misdemeanor offenses which occur at the site of a riot or unlawful assembly and would be subject to the proposed Class 6 felonies, sentencing for the proposed felonies could trend similarly to Class 6 felony sentencing under § 18.2-414 for causing injury to property or persons during a riot. According to the Circuit Court CMS data FY 2014 through FY2019, two offenders were convicted of a Class 6 felony under § 18.2-414. This offense was the primary, or most serious, offense for one offender, who was sentenced to a local responsible (jail) term of four months.

Because the bill creates new felony offenses which would impact a subset of current misdemeanor offenses under §§ 18.2-151.1 and 18.2-414.1, the bill may increase the state responsible (prison) bed space needs of the Commonwealth.

However, existing data sources do not contain sufficient detail to estimate the number of additional felony convictions that may occur following enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined. 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 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Additionally, the proposal bill may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined. However, there is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail and \$12.00 a day for each state-responsible prisoner. 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 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

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

10. Technical Amendment Necessary: No

11. Other Comments: None