

Department of Planning and Budget

2021 Fiscal Impact Statement

1. Bill Number: HB1781

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

2. Patron: Carter

3. Committee: Courts of Justice

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

5. Summary: Under current law, any person who is not the owner of the 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 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 reduces 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 FY2019 and FY2020 Sentencing Guidelines data, provided by the Virginia Criminal Sentencing Commission (VCSC), 393 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 171 cases. While 38.0 percent of these offenders did not receive an active term of incarceration to serve after sentencing, 46.8 percent were sentenced to local-responsible (jail) terms for which the median sentence length was 6.0 months. For the remaining 15.2 percent of offenders sentenced to serve a state-responsible (prison) term, the median sentence length was 1.3 years.

By reducing a Class 6 felony penalty to a Class 1 misdemeanor, the proposed legislation is expected to reduce the number of offenders who would be sentenced to terms in state prisons.

Those offenders sentenced to active terms of incarceration would instead serve the sentence in local jails.

The potential savings associated with this bill depends on how many offenders would have been sentenced to a state-responsible term and where those offenders would ultimately serve their sentences. The cost of a bed in a DOC facility (prison) in FY2020 was \$38,688 as calculated by the Department of Planning and Budget. The Commonwealth pays localities \$12.00 a day for any state-responsible prisoner held in a local jail.

Potential savings would be offset by the costs incurred to house misdemeanants in jails. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail and a fine of not more than \$2,500, either or both.

The Commonwealth currently pays the localities \$4.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2020), the estimated total state support for local jails averaged \$34.59 per inmate, per day in FY 2019.

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