

## Department of Planning and Budget

### 2021 Fiscal Impact Statement

**1. Bill Number:** HB1860

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

**2. Patron:** Guy

**3. Committee:** Courts of Justice

**4. Title:** Obtaining, attempting to obtain, procuring, or attempting to procure controlled substances.

**5. Summary:** Currently, it is a Class 6 felony for any person to obtain or attempt to obtain or procure any controlled substance or marijuana under four provisions: by fraud etc., by forgery etc., by concealment etc., and by falsifying name or address. The bill adds a fifth provision, “by means of the Internet, United States Postal Service, or other commercial delivery provider without a valid prescription or order of a practitioner while acting in the course of his professional practice,” to the list of those resulting in a Class 6 felony when obtaining or attempting to obtain or procure any controlled substance or marijuana. In addition, the bill adds an exemption from this new provision so that persons authorized by local, state, or federal law to manufacture, compound, process, sell, or dispense controlled substances would not be subject to the new fifth provision.

**6. Budget Amendment Necessary:** Yes. Item 402.

**7. Fiscal Impact Estimates:** Preliminary. See below.

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2021	\$50,000	0	General
2022			
2023			
2024			
2025			
2026			
2027			

**8. Fiscal Implications:** For someone convicted of a Class 6 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

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 misdemeanor 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 2020), the estimated total state support for local jails averaged \$34.59 per inmate, per day in FY 2019.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 56, 2020 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

Any potential fiscal impact on the Department of Juvenile Justice (DJJ) is indeterminate at this time.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, Department of State Police, Department of Juvenile Justice, Local and regional jails, Local law enforcement agencies, Courts, Commonwealth's Attorneys, and Public Defenders Offices.

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None