

Department of Planning and Budget 2021 Fiscal Impact Statement

1. Bill Number: HB2132H1

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

2. Patron: Roem

3. Committee: House

4. Title: Homicides and assaults and bodily woundings; certain matters not to constitute defenses.

5. Summary: The bill substitute provides, under (§ 18.2-37.1), that the discovery of, perception of, or belief about another person's actual or perceived sex, gender, gender identity, or sexual orientation, whether or not accurate, is not a defense to any charge of capital murder, murder in the first degree, murder in the second degree, or voluntary manslaughter and is not provocation negating or excluding malice as an element of murder. In addition, under § 18.2-57.5., the bill provides that the discovery of, perception of, or belief about another person's actual or perceived sex, gender, gender identity or sexual orientation, whether or not accurate is also not a defense to assaults and bodily woundings. It also provides that nothing in these sections (§ 18.2-37.1. and § 18.2-57.5.) shall be construed to prevent a defendant from exercising his constitutionally protected rights, including his right to call for evidence in his favor that is relevant and otherwise admissible in a criminal prosecution.

6. Budget Amendment Necessary: Yes. Item 402.

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

8. Fiscal Implications: According to the Virginia Sentencing Commission, there is insufficient data to determine the number of cases that have resulted in not guilty verdicts, reduced charges or lower sentences based on a defense related to the victim's actual or perceived sex, gender, gender identity or sexual orientation. By limiting defense strategies and consideration for mitigation, the bill may increase the future state-responsible prison bed space needs. However, there is not sufficient data to estimate the number of additional felony convictions or the number of convictions for more serious offenses. Accordingly, 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.

The proposal may increase local jail space needs, 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 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.

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

- 10. Technical Amendment Necessary:** No

- 11. Other Comments:** None