

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: HB361

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

2. Patron: Watts

3. Committee: House Committee for Courts of Justice

4. Title: Allowing access to, purchase for, or provision of marijuana to minors

5. Summary: The proposed bill clarifies that it is a Class 1 misdemeanor for any person who cultivates marijuana plants for personal use to recklessly allow unauthorized access to such marijuana plants by a person younger than 21 years of age.

The bill provides that any person who purchases marijuana or marijuana products for, or otherwise gives, provides, or assists in the provision of marijuana or marijuana products to another person when he knows or has reason to know that such person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class 1 misdemeanor.

The bill also removes marijuana from the types of drugs for which distribution to a person under the age of 18 is a felony punishable by a period not less than 10 nor more than 50 years, and a fine not more than \$100,000 with the possibility of mandatory minimum sentences. Such provisions shall not become effective if the corresponding provisions of Chapters 550 and 551 of the Acts of Assembly of 2021, Special Session I, are reenacted by the 2022 Session of the General Assembly.

6. Budget Amendment Necessary: No

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

8. Fiscal Implications: According to the Virginia Criminal Sentencing Commission, during FY 2016 through FY 2021, there were 18 convictions under § 18.2-255(A) for selling less than one ounce of marijuana to a minor (2 of the 18 convictions were attempts). All of the convictions for completed acts (16 convictions) resulted in a state-responsible (prison) term with a median sentence of 2.1 years. It is not known if these offenders spent their sentence in state facilities or local correctional facilities. The Commission did not have data for any convictions for selling one ounce or more of marijuana to a minor.

The proposed bill does not increase the state-responsible prison population. However, the bill could impact jail populations. 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 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

9. Specific Agency or Political Subdivisions Affected: Local and regional jails

10. Technical Amendment Necessary: No

11. Other Comments: None