

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: HB1897 ER

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Bell

3. Committee: Passed both Houses

4. Title: Protective orders; extensions and continuances; other monetary relief; penalty.

5. Summary: The enrolled bill amends sections of the Code of Virginia that govern protective orders by providing that if a petitioner files a written motion requesting a hearing to extend a permanent protective order, the court may extend the protective order until the extension hearing is conducted. The proposal also provides that, when an ex parte preliminary protective order has been issued, the court may continue the full hearing of the protective order upon the motion of the petitioner when the petitioner shows by clear and convincing evidence that a continuance is necessary to meet the ends of justice.

6. Budget Amendment Necessary: Yes, Item 404.

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

8. Fiscal Implications: Currently, many violations of family abuse protective orders and violations of health and safety protective orders are punishable as Class 1 misdemeanors. Second or subsequent violations of these are punishable as Class 6 felonies, some with mandatory minimum terms of incarceration.

According to the General District Court and Juvenile & Domestic Relations Court Case Management Systems (CMS) provided by the Virginia Criminal Sentencing Commission, 5,364 protective orders were issued under § 16.1-279.1 (related to family abuse protective orders) and 3,827 protective order orders were issued under § 19.2-152.10 (related to health and safety protective orders) during calendar year 2021. Data do not exist to estimate the rate at which judges might extend protective orders, as proposed. By authorizing extensions of protective orders, however, the proposal would provide additional time during which the person subject to the protective order may violate the conditions of the order set by the court.

Because it potentially expands the applicability of existing felony offenses, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal.

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 \$15.00 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 2022), the estimated total state support for local jails averaged \$40.39 per inmate, per day in FY 2021.

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 2, 2022 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

It is foreseeable that this legislation will result in additional hearings in both the general district and juvenile and domestic relations district courts. However, because these extra hearings will only occur upon the initiative of a party, it is not possible to determine how many additional hearings will result.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, local and regional jails, local law enforcement agencies, Commonwealth Attorneys, Public Defenders offices, courts

10. Technical Amendment Necessary: No

11. Other Comments: None