

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: SB1272

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Boysko

3. Committee: Judiciary

4. Title: Assault and battery; persons diagnosed with autism spectrum disorder, intellectual disability.

5. Summary: The proposed legislation provides that any person charged with a simple assault and battery offense who has been diagnosed by a psychiatrist or clinical psychologist with an autism spectrum disorder, an intellectual disability, or serious mental illness and the violation was caused by or had a direct and substantial relationship to the person's disorder or disability shall not be subject to mandatory minimum punishment. Under current law, certain simple assault and battery offenses carry a mandatory minimum punishment when such offenses are committed against certain groups of people.

6. Budget Amendment Necessary: No

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

8. Fiscal Implications: Anyone convicted of a Class 6 felony under the current law is subject to a mandatory sentence of six months in jail or prison. Anyone convicted of a Class 1 misdemeanor under the current law is subject to a mandatory sentence of two days in jail. Therefore, the provisions of this bill may have the effect of fewer people being sentenced to jail or prison. However, there is not enough information available to reliably estimate the impact on jail or prison bed space needs as a result of this proposal. The Commonwealth currently pays the localities \$15.00 a day for each state-responsible prisoner held in a jail. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant 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 2022), the estimated total state support for local jails averaged \$40.39 per inmate, per day in FY 2021.

According to Circuit Court Case Management System (CMS) data for FY 2021 and FY 2022, provided by the Virginia Criminal Sentencing Commission (VCSC), 691 offenders were convicted of a Class 6 felony under § 18.2-57(C) for assaulting a law enforcement officer, judge, magistrate, etc. (for these individuals, the assault was the primary, or most

serious, offense at sentencing), 71 individuals were convicted of a Class 1 misdemeanor under § 18.2-57(E) for assault and battery of a health care provider in an emergency facility and four individuals were convicted of a Class 1 misdemeanor under § 18.2-57(D) for assault and battery of a school employee. However, VCSC does not have any information on the number of people convicted of those offenses who had been diagnosed with autism or an intellectual disability.

This bill is not expected to have a fiscal impact on the Criminal Fund. Any impact this bill may have on the Department of Behavioral Health and Development Services is not known at this time. If additional information becomes available, this impact statement will be revised.

9. Specific Agency or Political Subdivisions Affected: Law enforcement agencies, Commonwealth's Attorneys, courts, local and regional jails, Department of Behavioral Health and Developmental Services

10. Technical Amendment Necessary: No

11. Other Comments: This bill is a companion to HB2074.