

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: HB1102

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

2. Patron: Walker

3. Committee: Courts of Justice

4. Title: Marijuana presumption; driving or operating a motor vehicle, etc., while intoxicated; penalty.

5. Summary: Establishes a presumption of intoxication if a person has a blood concentration equal to or greater than 0.003 milligrams of delta-9-tetrahydrocannabinol per liter of blood.

6. Budget Amendment Necessary: Yes, Item 390.

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

8. Fiscal Implications: According to the Department of Forensic Science (DFS) and the Virginia State Police (VSP), this bill is not expected to have a fiscal impact on agency operations.

According to the Virginia Criminal Sentencing Commission (VCSC), establishing a procedure for testing for driving under the influence of drugs and defining a threshold for THC at which point a driver is presumed to be driving under the influence may result in additional convictions under §§ 18.2-266 (driving motor vehicle, engine, etc.), 29.1-738 (operating boat or manipulating water skis, etc.), or 46.2-341.24 (driving commercial motor vehicle while intoxicated), including felony convictions for the third or fourth DWI driving offense. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal; therefore, the magnitude of the impact on prison bed space needs cannot be estimated.

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 1, 2023 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

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 \$5.00 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 2023), the estimated total state support for local jails averaged \$45.76 per inmate, per day in FY 2022.

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

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.