

Department of Planning and Budget

2024 Session Fiscal Impact Statement

1. Bill Number: HB267H1

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

2. Patron: Watts

3. Committee: Courts of Justice

4. Title: Arrest/prosecution of individual experiencing mental health emergency; assault against law enforcement.

5. Summary: The substitute bill provides that it is an affirmative defense to prosecution of an individual for assault or assault and battery against a law-enforcement officer, as defined in subsection G, or a correctional officer, as defined in § 53.1-1, if at the time of the assault or assault and battery (i) the law-enforcement officer or correctional officer was responding to a request for service; (ii) (a) the individual had (1) a mental illness or (2) a neurocognitive disorder, including dementia, or a neurodevelopmental disability, including a developmental disability or intellectual disability, such as autism spectrum disorder, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association or (b) the individual met the criteria for the issuance of an emergency custody order pursuant to § 37.2-808; and (iii) the assault or assault and battery was caused by or had a direct and substantial relationship to the person's illness, disorder, or disability. Nothing in this subsection shall be construed to allow an affirmative defense for voluntary intoxication.

The bill defines the term mental illness as it relates to §18.257 (Assault and battery; penalty).

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications: The substitute bill provides that it is an affirmative defense to prosecution for assault or assault and battery against a law-enforcement officer if at the time of the assault or assault and battery (i) the law-enforcement officer or correctional officer was responding to a request for service; (ii) (a) the individual had a mental illness or a neurocognitive disorder, or (b) the individual met the criteria for the issuance of an emergency custody order; and (iii) the assault or assault and battery was caused by or had a direct and substantial relationship to the person's illness, disorder, or disability. The provisions of this bill may have the effect of fewer people being sentenced to jail or prison. At this time, data is not available on the number of people convicted of offenses who were experiencing a mental health emergency to reliably estimate the impact on jail or prison bed space needs as a result of this proposal.

The impact this bill may have on the Department of Health and Developmental Services (DBHDS) is indeterminate. The fiscal impact this bill may have on state and local law-enforcement agencies is not known at this time. The fiscal impact statement will be updated if additional information is received.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, local and regional jails, law-enforcement agencies, Department of Behavioral Health and Developmental Services, courts.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.