

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: HB861ER

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

2. Patron: Hernandez

3. Committee: Passed both houses.

4. Title: Weapons; possession or transportation; facility that provides mental health services or development.

5. Summary: Makes it a Class 1 misdemeanor for any person to knowingly possess in or transport into any hospital that provides mental health services or developmental services in the Commonwealth, including an emergency department or other facility rendering emergency medical care, any (i) firearm or other weapon designed or intended to propel a missile or projectile of any kind; (ii) knife, except a pocket knife having a folding metal blade of less than three inches; or (iii) other dangerous weapon, including explosives and stun weapons. The bill provides that any such firearm, knife, explosive, or weapon is subject to seizure by a law-enforcement officer and forfeiture to the Commonwealth. Additionally, the bill specifies exceptions to the prohibition for on-duty law enforcement officers, guards at state correctional institutions, and armed security officers; any person brought into a hospital pursuant to the issuance of an emergency custody order or involuntary detention order; or any person authorized or employed by the hospital who possesses a knife within the scope of such authorization of employment. Notice of the prohibition on such items must be posted conspicuously at the public entrance of any hospital.

6. Budget Amendment Necessary: Yes, Item 390

7. Fiscal Impact Estimates: Final, see Item 8 below.

8. Fiscal Implications: According to the Virginia Criminal Sentencing Commission (VCSC), the proposal creates a new Class 1 misdemeanor penalty relating to the carrying of certain weapons into a hospital that provides mental health services or developmental services. 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.

A third or subsequent Class 1 misdemeanor weapon violation is punishable as a Class 6 felony. 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 or prison population as a result of this proposal. 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.

Additionally, 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.

According to the Department of State Police, the Virginia Department of Health, and the Department of Behavioral Health and Developmental Services, there is no anticipated fiscal impact on the agencies' operations as a result of the bill.

- 9. Specific Agency or Political Subdivisions Affected:** State and local law enforcement agencies, local and regional hospitals, Department of Corrections, Courts, Commonwealth's Attorneys, Office of Public Defender, Virginia Department of Health, Department of Behavioral Health and Developmental Services.

10. Technical Amendment Necessary: No.

11. Other Comments: None