

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: SB357

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

2. Patron: Boysko

3. Committee: Courts of Justice

4. Title: Assault and battery of a law-enforcement officer; penalty.

5. Summary: Under current law, any person who commits an assault or an assault and battery against another knowing or having reason to know that such other person is an official listed in § 18.2-57(C) (includes judges, magistrates, law-enforcement offices, etc.) who is engaged in the performance of his public duties anywhere in the Commonwealth, is guilty of a Class 6 felony. Upon conviction, the sentence of such person must include a mandatory minimum term of confinement of six months.

This bill specifies that the assault and battery results in bodily injury to the official, reduces the penalty for assault and battery of such officials from a Class 6 felony to a Class 1 misdemeanor, and reduces the mandatory minimum term of confinement from six months to 10 days. The also bill provides that no person is subject to arrest or prosecution for assault and battery of a law-enforcement officer if, at the time of such assault and battery, the officer was responding to an emergency call to summon fire, police, or emergency medical services in a situation where the individual is experiencing a crisis and whose behaviors are consistent with (i) mental illness as described in § 19.2-271.6 (Evidence of defendant's mental condition admissible; notice to Commonwealth) or (ii) an intellectual disability or a developmental disability as defined in § 37.2-100 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.

6. Budget Amendment Necessary: Indeterminate

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

8. Fiscal Implications: The Virginia Criminal Sentencing Commission (VCSC) provided the following data to help assess the impact of this bill:

- According to fiscal year (FY) 2022 and FY2023 Sentencing Guidelines data, 1,091 offenders were convicted of a felony for assault or assault and battery of a law enforcement officer, correctional officer, firefighter, etc., under § 18.2-57(C). In 813 of the cases, the assault was the primary, or most serious, offense. More than half of the offenders (54.9%) received a local-responsible (jail) sentence for which the median sentence was seven months. For the 35.5% of offenders who were given a

state-responsible (prison) term, the median sentence length was 1.5 years. The remaining 9.6% did not receive an active term of incarceration to serve after sentencing and were likely sentenced to the time served by the defendant while awaiting trial.

- The 289 defendants who received a prison sentence for this offense would not have received such a sentence under the provisions of this bill (as long as there were no felony additional offenses in the event).

Therefore, the provisions of this bill may have the effect of fewer people being sentenced to jail or prison. The Commonwealth currently pays \$5.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail, and \$15.00 a day for state responsible prisoner held in local jail. It also funds a large 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.

The fiscal impact this bill may have on the Department of Health and Developmental Services (DBHDS) and 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