

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** SB364

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

2. **Patron:** Ebbin

3. **Committee:** Finance and Appropriations

4. **Title:** Elections; protection of election officials; penalty.

5. **Summary:** Adds current or former status as an election official or employee of an election official to the categories of victims whose intentional selection for a hate crime involving assault, assault and battery, or trespass for the purpose of damaging another's property results in a higher criminal penalty for the offense. The bill also adds current or former status as an election official or employee of an election official to the categories of hate crimes that are to be reported to the central repository of information regarding hate crimes maintained by the Virginia State Police. The bill provides that a person who is subjected to acts of intimidation or harassment, violence directed against his person, or vandalism to his real or personal property, where such acts are motivated by current or former status as an election official or employee of an election official, may bring a civil action to recover his damages. The bill also provides that no provider or user of an interactive computer service on the Internet shall be liable for any action voluntarily taken by it in good faith to restrict access to material that the provider or user considers to be intended to incite hatred on the basis of current or former status as an election official or employee of an election official. The bill also adds to the list of protected voters any election official or employee of an election official. Protected voters are permitted by law to provide on the application for voter registration, in addition to the voter's residence street address, a post office box address located within the Commonwealth, which would be the address included on (i) lists of registered voters and persons who voted, (ii) voter registration records made available for public inspection, and (iii) lists of absentee voter applicants. The bill also makes it a Class 5 felony to hinder or prevent an election official or employee of an election official from administering elections. Under current law, it is only a Class 5 felony to hinder or prevent an officer of election at a location being used for voting from holding an election.

6. **Budget Amendment Necessary:** See below.

7. **Fiscal Impact Estimates:** Preliminary; see below.

8. **Fiscal Implications:** The proposed legislation is not expected to have a fiscal impact on the Department of Elections.

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. For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 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 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.

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.

9. Specific Agency or Political Subdivisions Affected: Virginia Department of Elections, State Board of Elections, localities (General Registrars and Electoral Boards), Virginia State Police, and the Department of Corrections.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

February 7, 2024