

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB440H1

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

2. Patron: Boysko

3. Committee: House

4. Title: Unlawful hazing; penalty.

5. Summary: The bill substitute makes the crime of hazing a Class 5 felony if such hazing results in death or serious bodily injury to any person. The crime of hazing that does not result in death or serious bodily injury remains a Class 1 misdemeanor. The bill provides an affirmative defense to prosecution of an individual for hazing if a person in good faith seeks or obtains emergency medical attention for a person who has received a bodily injury by hazing or renders emergency care or assistance, including cardiopulmonary resuscitation (CPR), to a person who has received a bodily injury by hazing while another person seeks or obtains emergency medical attention for such person.

6. Budget Amendment Necessary: Yes, Item 404.

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

8. Fiscal Implications: The proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth by expanding the definition of hazing and elevating the penalty for hazing that results in death or serious bodily injury from a Class 1 misdemeanor to a Class 5 felony.

For someone convicted of a Class 5 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than ten 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 \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail and \$12.00 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 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

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 552, 2021 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

According to the Department of Juvenile Justice (DJJ), the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined, and DJJ also reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections; Department of Juvenile Justice; Local and regional jails; Courts; Commonwealth Attorneys; and, Public Defenders.

10. Technical Amendment Necessary: No

11. Other Comments: The bill is related to HB993.