

## Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** HB1202

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

2. **Patron:** Scott, P.A.

3. **Committee:** Committee Referral Pending

4. **Title:** Killing the fetus of another; manslaughter; penalties.

5. **Summary:** Under current law, anyone who unlawfully, willfully, deliberately, maliciously, and with premeditation kills the fetus of another is guilty of a Class 2 felony and anyone who unlawfully, willfully, deliberately, and maliciously kills the fetus of another without premeditation is guilty of a felony punishable by confinement in a state correctional facility for not less than five nor more than 40 years.

This bill establishes that anyone who kills the fetus of another by an intentional act committed while in the sudden heat of passion upon reasonable provocation is guilty of voluntary manslaughter. The bill also establishes that anyone who kills the fetus of another accidentally, contrary to the intention of the parties and while engaged in conduct so gross, wanton, and culpable as to show a reckless disregard for human life, is guilty of involuntary manslaughter. Voluntary and involuntary manslaughter are punishable as Class 5 felonies.

6. **Budget Amendment Necessary:** Yes, Item 390

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

8. **Fiscal Implications:** By expanding the circumstances in which individuals may be convicted of voluntary or involuntary manslaughter, the proposal could increase the future state-responsible (prison) bed space needs of the Commonwealth.

Anyone convicted of a Class 5 felony is subject to a term of imprisonment of one to 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. The Virginia Criminal Sentencing Commission reports that local-responsible (jail) bed space needs may also be affected. However, data do not contain sufficient detail to estimate the number of individuals likely to be affected by the proposal. 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:** Department of Corrections, local and regional jails, local law enforcement agencies, Commonwealth Attorneys, Public Defenders offices, courts

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None