

Department of Planning and Budget 2022 Fiscal Impact Statement

1. **Bill Number:** SB122

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

2. **Patron:** Obenshain

3. **Committee:** Judiciary

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

5. **Summary:** The proposed legislation provides that any person 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, which is punishable as a Class 5 felony. The bill also provides that any person 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, which is also punishable as a Class 5 felony.

6. **Budget Amendment Necessary:** Yes, Item 404.

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

8. **Fiscal Implications:** 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 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 \$4.00 a day for each misdemeanor 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.

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

10. Technical Amendment Necessary: No

11. Other Comments: SB155 and HB744 are identical to this bill.