

Department of Planning and Budget 2021 Special Session I Fiscal Impact Statement

1. Bill Number: SB1297 H1

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

2. Patron: Obenshain

3. Committee: Passed both houses

4. Title: Emergency order for adult protective services; acts of violence, force, or threat.

5. Summary: Current law defines “emergency” as living conditions that present a clear and substantial risk of death or immediate and serious physical harm to an adult or others. The proposal expands the definition of “emergency” to an adult that has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation.

The proposal also allows the circuit court to impose certain prohibitions or conditions on an alleged perpetrator through an emergency order, upon a finding that an incapacitated adult has been subjected to an act of violence, force, or threat or been subjected to financial exploitation. These prohibitions or conditions include one or more of the following: (i) a prohibition on acts of violence, force, or threat or criminal offenses that may result in injury to person or property; (ii) a prohibition on such other contacts by the alleged perpetrator with the adult or the adult's family or household members as the court deems necessary for the health and safety of such persons; or (iii) such other conditions as the court deems necessary to prevent (a) acts of violence, force, or threat; (b) criminal offenses that may result in injury to persons or property; (c) communication or other contact of any kind by the alleged perpetrator; or (d) financial exploitation by the alleged perpetrator. The bill provides that any person who violates any such condition is guilty of a Class 1 misdemeanor. In addition, while current law requires a hearing on emergency orders for adult protective services to be held no earlier than 24 hours, this proposal requires these hearings to be held no earlier than 24 hours and no later than 72 hours after the notice required has been given, unless such notice has been waived by the court.

If these conditions or prohibitions have been imposed on the perpetrator through the court order, the proposal also establishes a process for sharing information between the Clerk of the Circuit Court and the primary law-enforcement agency and further requires the law-enforcement agency to enter the information into the Virginia Criminal Information Network.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications: According to the Office of the Executive Secretary of the Supreme Court (OES), the bill may increase the number of adult protection cases in the circuit courts. However, it is not feasible to estimate the increase at this time.

According to the Virginia Department of Social Services (VDSS), although the bill broadens the circumstances under which a local department of social services (LDSS) can petition for emergency adult protective services (APS), these petitions infrequently occur (31 documented APS emergency orders in SFY 2020). VDSS expects any additional work as a result of this bill to be minimal, resulting in no material impact on both LDSS and VDSS. The Department of Rehabilitative Services also expects no impact.

The bill also establishes a process for sharing information between the circuit court and the local law enforcement agency and increases the information entered into the Virginia Criminal Information Network. However, the Department of State Police indicates that there is no fiscal impact on agency operations.

Furthermore, the bill establishes a new Class 1 misdemeanor which may increase the jail population. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail and a fine of not more than \$2,500, either or both.

According to the Virginia Criminal Sentencing Commission, not enough information is 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. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2020), the estimated total state support for local jails averaged \$34.59 per inmate, per day in FY 2019.

9. Specific Agency or Political Subdivisions Affected: Courts, Local law enforcement

10. Technical Amendment Necessary: None

11. Other Comments: Identical to HB2018