

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB98

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

2. Patron: Emmett W. Hanger

3. Committee: Judiciary

4. Title: Summons; promise to appear after issuance.

5. Summary: Provides that if any person refuses to give a written promise to appear, the arresting officer shall give such person notice of the time and place of the hearing, note such person's refusal to give his written promise to appear on the summons, and forthwith release him from custody. Any person who willfully violates his written promise to appear or fails to appear at the time and place specified in such summons or notice issued in accordance with this section, shall be treated in accordance with the provisions of § 19.2-128. Under current law, any person refusing to give such written promise to appear is required to be taken immediately by the arresting officer before a magistrate or other issuing officer having jurisdiction.

6. Budget Amendment Necessary: See Item 8.

7. Fiscal Impact Estimates: See Item 8.

8. Fiscal Implications: The bill requires that anyone who willfully fails to appear at the time and place specified in a summons or notice issued in accordance with § 2.2-311 must be treated in accordance with the provisions of § 19.2-128, which provides that failure to appear on a misdemeanor charge is punishable as a Class 1 misdemeanor and that failure to appear on a felony charge is punishable as a Class 6 felony. The bill provides that these penalties apply regardless of the disposition of, and in addition to, the charge upon which he was originally arrested. It is unknown at this time how many people will refuse to give a written promise to appear and then fail to appear.

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. 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. 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 or prison population as a result of this proposal. However, any increase in either 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 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.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, local and regional Jails

10. Technical Amendment Necessary: No

11. Other Comments:

Date: 2/15/2022