

## Department of Planning and Budget 2022 Fiscal Impact Statement

**1. Bill Number:** HB613

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

**2. Patron:** Bourne

**3. Committee:** Courts of Justice

**4. Title:** Arrest and prosecution of individual experiencing a mental health emergency; assault.

- 5. Summary:** This bill provides that no individual is subject to arrest or prosecution for an assault or assault and battery against a law-enforcement officer if at the time of the assault or assault and battery (i) the individual is experiencing a mental health emergency or meets the criteria for issuance of an emergency custody order pursuant to § 37.2-808 (governs emergency custody; issuance and execution of order) and (ii) the law-enforcement officer subject to the assault or assault and battery was responding to a call for service requesting assistance for such individual. The bill provides that no law-enforcement officer acting in good faith can be found liable for false arrest if it is later determined that the person arrested was immune from prosecution. Currently, a violation of §18.2-57.C is a Class 6 felony with a mandatory minimum term of confinement of six months.

The bill defines the terms mental health emergency and mental illness as they relate to § 18.2-57 (Assault and battery; penalty).

**6. Budget Amendment Necessary:** Indeterminate.

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

- 8. Fiscal Implications:** Anyone convicted of a Class 6 felony under the current law is subject to a mandatory sentence of six months. Therefore, the provisions of this bill may have the effect of fewer people being sentenced to jail or prison. However, there is not enough information available to reliably estimate the impact on jail or prison bed space needs as a result of this proposal. The Commonwealth currently pays the localities \$12.00 a day for each state-responsible prisoner held in a jail.

The Department of Planning and Budget has requested an impact assessment from the Department of Behavioral Health and Developmental Services (DBHDS) but has not received any information. Therefore, any impact this bill may have on DBHDS is not known at this time. The fiscal impact this bill may have on state and local law-enforcement agencies is not known at this time. The fiscal impact statement will be updated once information is received reflecting fiscal impact on state agencies.

**9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, local and regional jails, law-enforcement agencies, Department of Behavioral Health and Developmental Services, courts

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None