

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: HB993

House of Origin	<input checked="" type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Murphy

3. Committee: Courts of Justice

4. Title: Unlawful hazing; penalty.

5. Summary: The proposed legislation amends the definition of hazing to include the reckless or intentional act of causing another person to suffer severe emotional distress through outrageous or intolerable conduct when the severe emotional distress was caused by such conduct. The bill also makes the crime of hazing a Class 5 felony if such hazing results in death or serious bodily injury to any person. The crime of hazing that does not result in death or serious bodily injury remains a Class 1 misdemeanor. The bill provides immunity for arrest and prosecution for hazing if a person in good faith seeks or obtains emergency medical attention for a person who has received a bodily injury by hazing or renders emergency care or assistance, including cardiopulmonary resuscitation (CPR), to a person who has received a bodily injury by hazing while another person seeks or obtains emergency medical attention for such person. The bill also creates a civil penalty for certain organizations and institutions of higher education if such organizations or institutions had specific credible knowledge that its student members were participating, aiding, or assisting in any act of hazing and did not attempt to intervene to stop the hazing or report it to the appropriate local authorities.

6. Budget Amendment Necessary: Yes, Item 404.

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

8. Fiscal Implications: The proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth by expanding the definition of hazing and elevating the penalty for hazing that results in death or serious bodily injury from a Class 1 misdemeanor to a Class 5 felony.

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 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. 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.

According to the Department of Juvenile Justice (DJJ), the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined, and DJJ also reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

In addition, current law requires the president or other presiding official of any school or institution of higher education receiving appropriations from the state treasury to report hazing which causes bodily injury to the attorney for the Commonwealth of the county or city where the school or institution of higher education is located. The proposed legislation expands this provision to include all hazing so that the report is required whether there is bodily injury or not. The proposed legislation also creates a civil penalty of no more than \$5,000 that could impact the president or other presiding official of an institution of higher education, in their individual capacity, if the presiding official fails to report a hazing violation. The proposed legislation also creates a civil penalty of no more than \$50,000 that could impact institutions of higher education if an agent of the institution of higher education or member of the institution of higher education's governing board knowingly fails to stop or report a hazing violation. The fiscal impact of this provision is indeterminate as there is no way to estimate the number of incidents or the amount of penalties that could occur as a result. Any fiscal impact on the institutions of higher education can be absorbed by existing resources. Civil penalties are generally paid into the general fund of the state treasury.

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

10. Technical Amendment Necessary: No

11. Other Comments: The bill is related to SB440.