

Department of Planning and Budget

2008 Fiscal Impact Statement

1. Bill Number **HB 34**

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron Ingram

3. Committee Passed both houses

4. Title **Aggravated sexual battery**

5. Summary/Purpose:

The proposed legislation would make it a Class 1 misdemeanor for a person 18 years old or older to kiss, with lascivious intent, a child under the age of 13 on the mouth while penetrating the mouth of the child with his tongue.

The bill would also require anyone convicted of the offense to register with the state's Sex Offender and Crimes Against Minors Registry (SOR). Failure to register or re-register with the SOR is a Class 1 misdemeanor for the first violation and a Class 6 felony for a second or subsequent violation.

6. Fiscal Impact: Final. See Item 8.

7. Budget amendment necessary: No.

8. Fiscal implications:

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to twelve months in jail. For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or 1 to 5 years in prison. 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 how many additional inmates in jail could result from this proposal. Any increase in jail population will increase costs to the state. The Commonwealth pays the localities \$8.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail, \$8.00 a day for each state responsible inmate held for sixty days or less, and \$14.00 a day for each state responsible inmate held for more than sixty days. It also funds most 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 2007), the estimated total state support for local jails averaged \$28.42 per inmate, per day in FY 2006.

The Virginia Criminal Sentencing Commission was unable to determine the impact of this proposal on state-responsible (prison) bed space pursuant to §30-19.1:4 of the Code of Virginia because the proposal would criminalize behavior that is not currently defined as a criminal act, and data on such activity does not exist. Consequently, the number of individuals who could be affected by the proposal is unknown. However, the impact is likely to be negligible.

9. Specific agency or political subdivisions affected:

Department of Corrections
Local and regional jails

10. Technical amendment necessary: None.

11. Other comments: None.

Date: 02/05 /2008 / rwh

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