



**JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION**  
**Fiscal Impact Review**  
**2014 Session**

**Bill Number:** HB 1226

**Review Requested By:** Chairman Albo

**JLARC Staff Fiscal Estimates**

HB 1226 modifies the definition for stalking in the *Code of Virginia* (§ 18.2-60.3) to include the use of electronic transmissions that produce a visual or textual message. JLARC staff do not concur with the Department of Planning and Budget (DPB) and Virginia Criminal Sentencing Commission (VCSC) fiscal impact statements that HB 1226 would result in a fiscal impact of \$50,000. It is established under Virginia law that § 18.2-60.3 of the *Code* makes stalking by telephone illegal, and legal experts consulted for this review uniformly believe that the statute currently applies to stalking via electronic transmission as well. Therefore, HB 1226 is not expected to result in additional convictions and would not have an associated fiscal impact.

An explanation of the JLARC staff review is included on the following pages.

**Authorized for Release:**

A handwritten signature in black ink that reads "Hal E. Greer". The signature is written in a cursive style.

**Hal E. Greer**  
**Director**

**Bill Summary:** HB 1226 amends the definition for stalking in the *Code of Virginia* (§ 18.2-60.3) to include, but not be limited to, electronic transmissions that produce a visual or textual message.

**Discussion of Fiscal Implications:** The DPB and VCSC fiscal impact statements state that HB 1226 expands the definition of stalking and could, therefore, result in additional convictions, but that the resulting fiscal impact cannot be determined based on available data. Therefore, Chapter 806 of the 2013 Acts of Assembly requires that a minimum impact of \$50,000 be applied to the bill.

JLARC staff do not concur that there will be a fiscal impact associated with HB 1226 because it appears that § 18.2-60.3 is already sufficiently broad to make stalking through electronic transmissions illegal. Section 18.2-60.3 defines stalking as “any person...who on more than one occasion engages in conduct directed at another person with the intent to place...that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or that other person’s family or household...” Violation of § 18.2-60.3 results in a misdemeanor or felony offense depending on the nature of the violation.

The Virginia Court of Appeals has upheld at least two convictions under § 18.2-60.3 for telephone stalking, and legal experts consulted for this review believe that the *Code* section similarly applies to stalking via electronic transmission, such as cell phones. A 2003 report by the Stalking Resource Center (a program of the National Center for Victims of Crime) characterized § 18.2-60.3 as broad enough to cover both current and future technology. Specifically, the report states that “...such language allows the state to argue that any conduct, electronic or otherwise, that causes a reasonable person to be afraid should be recognized as stalking.” Staff from the Center further indicate that § 18.2-60.3 is similar to The Model Stalking Code developed by the National Center in allowing many forms and means of behavior to qualify as stalking, even those that have yet to be developed.

Because stalking using electronic transmissions already appears to be illegal under current Virginia statute (§ 18.2-60.3), HB 1226 is unlikely to lead to additional convictions and, therefore, is not expected to have a fiscal impact.

**Budget Amendment Necessary:** No.

**Agencies Affected.** Department of Corrections, Local and regional jails.

**Date Released, Prepared By:** 2/4/2014; Jeff Lunardi, Kimberly Sarte