

Department of Planning and Budget 2016 Fiscal Impact Statement

1. Bill Number: HB1332

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: L. Mark Dudenhefer

3. Committee: Committee on Commerce and Labor

4. Title: The Virginia Electronic Communications Privacy Act; report.

5. Summary: Prohibits a state or local government agency from taking certain actions relating to access to electronic communication information from a service provider, access to electronic device information from any person other than the authorized possessor of the device, or access to electronic device information by means of physical interaction or electronic communication with the electronic device. Exceptions allow access to electronic communication information or access to electronic device information pursuant to a warrant or wiretap order or with the consent of the authorized possessor of the device. The measure establishes requirements for a warrant for electronic information. An agency that receives voluntarily-provided electronic communication information is required to destroy the information within 90 days unless, subject to certain exceptions. If an agency obtains electronic information pursuant to an emergency involving danger of death or serious physical injury to a person, that requires access to the electronic information without delay, it is required within three days to file an application for a warrant or order authorizing obtaining the electronic information or a motion seeking approval of the emergency disclosures. An agency that obtains electronic communication information is required to make an annual report to the Attorney General. The Attorney General's office is required to publish on its website the individual reports from each agency that requests or compels the production of contents or records pertaining to an electronic communication or location information and a summary of such information.

6. Budget Amendment Necessary: Yes.

7. Fiscal Impact Estimates: Preliminary. See line 8.

8. Fiscal Implications: The Attorney General and Department of Law (OAG) indicates that this bill's requirement to report all warrants to the Attorney General's office would create an administrative burden for every law enforcement agency in Virginia and the OAG. The OAG would likely have to hire one additional staff person to continually compile and keep track of the reporting requirements. The estimated cost of the additional staff is \$89,989 per year.

The Department of State Police (DSP) indicates that, though its fiscal impact cannot be completely determined, the bill will require DSP to add eight new administrative FTEs, one per BCI Field Office and one at the Administrative Headquarters – BCI Director's Office. Those costs are estimated at \$542,428 the first year and \$529,628 the second year, for a total of \$1,072,056 in the biennium. The respective job duties would include collection of said official data and report preparation as required by the proposed legislation.

DSP also mentioned indeterminate costs created by certain items of the bill. These items include: Line 91 – may require information systems programming to comply with the 30 days; Line 103 – may require new Department of State Police policy/procedures, may be additional costs associated with compliance; Line 145 – will require costs associated with travel, salaries, and vehicle maintenance associated with delivery, as well as USPS registered mail costs; Line 164 – will require costs associated with travel, salaries, and vehicle maintenance associated with delivery, as well as, registered mail costs; and Line 197 – no such report exists; therefore, DSP information technology systems will require programming changes to comply.

9. Specific Agency or Political Subdivisions Affected: Office of the Attorney General and Department of Law, Department of State Police, and State and Local Law Enforcement Agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: Similar to Senate Bill 599.

Date: 2/1/16

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