

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: SB607

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: Surovell

3. Committee: Courts of Justice

4. Title: Possession or transmission of sexually explicit electronic images by minors

5. Summary: This bill makes it a Class 2 misdemeanor for a minor to transmit, distribute, publish, or disseminate an electronically transmitted communication containing a sexually explicit image of himself or herself. In addition, any minor who knowingly possesses between one and ten electronically transmitted communications containing a sexually explicit image of another minor would be guilty of a Class 2 misdemeanor.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications: Currently, knowingly possessing any sexually explicit visual material that utilizes or has as a subject who is an identifiable minor is a Class 6 felony (one to five years in prison if the conviction is a felony). A second or subsequent conviction for possession of child pornography is increased to a Class 5 felony (one to ten years in prison when the conviction is a felony or up to 12 months). Under § 18.2-374.1:1(C), the reproduction, transmission, etc. of child pornography is a felony punishable by up to 20 years imprisonment. An individual who is convicted of a second or subsequent violation of § 18.2-374.1:1(C) is subject to a five-year mandatory minimum term of incarceration. Producing child pornography, as defined by § 18.2-374.1, is a felony and the statutory maximum penalty ranges from 20 to 40 years depending on the offender's age and prior record, as well as the age of the child.

The proposed legislation would allow a judge to take a finding of guilt under advisement and place the offender on probation for up to one year if the minor has not previously been convicted of a misdemeanor under the statute. Following successful fulfillment of the terms and conditions, the charge may be dismissed without an adjudication of guilt. Under the proposal, felony convictions for some juveniles under §§ 18.2-374.1 or 18.2-374.1:1 could be reduced to Class 2 misdemeanors. Anyone convicted of a Class 2 misdemeanor is subject to a sentence of up to six months in jail. Therefore, this proposal could result in an increase in the number of individuals sentenced to detention in the Department of Juvenile Justice (DJJ). However, there is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. The impact on DJJ cannot be determined at this time.

9. Specific Agency or Political Subdivisions Affected: Department of Juvenile Justice, Local and Regional Jails

10. Technical Amendment Necessary: No.

11. Other Comments: None.