

## Department of Planning and Budget 2019 Fiscal Impact Statement

**1. Bill Number:** HB1716

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:** Gooditis

**3. Committee:** House Committee for Courts of Justice

**4. Title:** Criminal sexual assault; definition of sexual abuse, complaining witness under age 13.

**5. Summary:** The bill expands the definition of "sexual abuse" to include instances in which the complaining witness is under the age of 13 and the accused intentionally touches any part of the complaining witness' body, either on the skin or the material covering the complaining witness' body.

**6. Budget Amendment Necessary:** Yes. Item 391.

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

**8. Fiscal Implications:** The bill expands the definition of "sexual abuse" to include instances in which the complaining witness is under the age of 13 and the accused intentionally touches any part of the complaining witness' body, either on the skin or the material covering the complaining witness' body. According to the Virginia Criminal Sentencing Commission, by expanding the definition of "sexual abuse", the proposal potentially expands the applicability of other provisions of existing law that directly or indirectly reference the definition of sexual abuse and also potentially expands the number of offenders who would be required to register with the Sex Offender and Crimes Against Minors Registry. Under existing law, the first Sex Offender Registry violation committed by an offender who is not defined as sexually violent is punishable as a Class 1 misdemeanor; a second or subsequent Registry violation is a Class 6 felony. For an offender defined as sexually violent, the first Registry violation is a Class 6 felony, while a subsequent violation is a Class 5 felony.

This proposal could therefore result in an increase in the number of persons sentenced to jail or prison. However, there is not sufficient data to estimate the impact of the proposed legislation on state-responsible (prison) bed space. In such cases, Chapter 2 of the 2018 Acts of Assembly, Special Session I requires that a minimum impact of \$50,000 be assigned to the bill.

Additionally, there is not enough information available to reliably estimate how many additional inmates in jail could result from this proposed legislation. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail. It also funds a large 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 2018), the estimated total state support for local jails averaged \$33.83 per inmate, per day in FY 2017.

- 9. Specific Agency or Political Subdivisions Affected:** Department of State Police; Department of Corrections; Local and regional jails; Local law enforcement; Courts; and Commonwealth's Attorneys.

- 10. Technical Amendment Necessary:** No

- 11. Other Comments:** None