

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: SB1123

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Peake

3. Committee: Senate Committee for Courts of Justice

4. Title: Threats over any telephone or wireless communication device to kill or do bodily injury.

5. Summary: Provides that any person who communicates a threat over any telephone or wireless communications device to kill or do bodily injury to a person, regarding that person or any member of his family, and the threat places such person in reasonable apprehension of death or bodily injury to himself or his family member, is guilty of a Class 6 felony. The bill also provides that any person convicted of communicating threats (i) of death or bodily injury to a person or member of his family or (ii) to commit serious bodily harm to persons on school property may be ordered by the court to make restitution as the court deems appropriate to any person who has suffered a loss as a result of the offense.

6. Budget Amendment Necessary: Yes. Item 391.

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

8. Fiscal Implications: This bill expands existing law to include threats to kill or do bodily injury to specified persons, communicated over telephone or a wireless communications device, which also result in reasonable apprehension of death or bodily harm by such a person, to constitute a Class 6 felony. The bill also provides that in addition to any other punishment, a person convicted under this section may be ordered by the court to make restitution as the court deems appropriate to any person who has suffered a loss as a result of the offense.

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. According to the Sentencing Commission, 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. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, any increase in jail population will increase costs to the state. 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 Corrections; Local and regional jails.

10. Technical Amendment Necessary: No

11. Other Comments: This bill is identical to HB2657.