

# Department of Planning and Budget

## 2010 Fiscal Impact Statement

**1. Bill Number: HB 23**

House of Origin      X      Introduced                  Substitute                  Engrossed  
Second House                 In Committee              Substitute                  Enrolled

**2. Patron: Johnson**

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

**4. Title: Prohibited photographs of children**

**5. Summary:**

The Code of Virginia sets out certain sexual crimes that are defined as “offenses prohibiting proximity to children.” The proposed legislation would make it a Class 6 felony for anyone convicted of an “offense prohibiting proximity to children” from photographing or videotaping a child, who is not the natural or adopted child of the person, at a school, playground, athletic field or facility, gymnasium, child day program, or public park, under the following conditions:

- express permission has not been granted by the child’s parent or guardian; and
- the child is the only or central image in the photograph.

**6. Fiscal Impact Estimates:** Preliminary. See Item 8.

Expenditure Impact:

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Fund</i> |
|--------------------|----------------|-------------|
| 2011               | \$50,000       | General     |
| 2012               | \$0            |             |
| 2013               | \$0            |             |
| 2014               | \$0            |             |
| 2015               | \$0            |             |
| 2016               | \$0            |             |

**7. Budget Amendment Necessary:** Yes. Item 380.

**8. Fiscal Implications:**

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.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$8.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail, \$8.00 a day for each state responsible inmate held for sixty days or less, and \$14.00 a day for each state responsible inmate held for more than sixty days. It also funds a considerable 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 2009), the estimated total state support for local jails averaged \$32.66 per inmate, per day in FY 2008.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 781 of the 2009 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

**9. Specific Agency or Political Subdivisions Affected:**

Department of Corrections  
Local and regional jails

**10. Technical Amendment Necessary:** None.

**11. Other Comments:** None.

Date: 2/9/2010 dpb