

## Department of Planning and Budget 2013 Fiscal Impact Statement

**1. Bill Number: HB 1745**

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

**2. Patron: Gilbert**

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

**4. Title: Sex offenses involving children**

**5. Summary:**

Under current law, it is a Class 5 felony for an adult, using electronic means, such as over the Internet, with lascivious intent, to propose to a child younger than 15 to feel or fondle the sexual or genital parts of the adult or to allow the adult to feel or fondle the sexual or genital parts of the victim. If the offender is at least seven years older than the victim, the sentence is enhanced from the 1 to 10 years in prison of a Class 5 felony to one of 5 to 30 years in prison, with a five-year mandatory minimum. A second or subsequent conviction is subject to a sentence of 10 years to 40 years, with a 10-year mandatory minimum.

Furthermore, it is a Class 5 felony for an adult to solicit a child older than 15 but younger than 18 to commit such activities if the adult doing the proposing is at least seven years older than the child. A second or subsequent conviction would be subject to a sentence of 1 to 20 years in prison, with a one-year mandatory minimum.

The proposed legislation would expand the existing offense to include the adult proposing to the child that the child feel or fondle his or her own sexual or genital parts.

**6. Budget Amendment Necessary:** No. The budget bill proposed by the Governor includes funding for the fiscal impact of this legislation.

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

**Expenditure Impact:**

	<i>Dollars</i>	<i>Fund</i>
2013		
2014	\$50,000	General
2015		
2016		
2017		
2018		

## **8. Fiscal Implications:**

For someone convicted of a Class 5 felony, a judge has the option of sentencing him to up to one year in jail, or 1 to 10 years in prison. In the case of the offense in question, the sentence would be enhanced if the offender were at least seven years older than the victim. 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 \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail and \$12.00 a day for each state responsible inmate. 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 2012), the estimated total state support for local jails averaged \$26.54 per inmate, per day in FY 2011.

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 3 of the 2012 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

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

Department of Corrections  
Compensation Board  
Local and regional jails

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

## **11. Other Comments:** Identical to SB 1031.

**Date:** 1/13/2013

**Document:** G:\LEGIS\fis-13\hb1745.docx Dick Hall-Sizemore