

## Department of Planning and Budget

### 2015 Fiscal Impact Statement

**1. Bill Number:** HB1308

<b>House of Origin</b>	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Marshall, R.G.

**3. Committee:** Courts of Justice

**4. Title:** Electronic communications; right to privacy, confidential relationship, penalty.

**5. Summary:** Right to privacy in electronic communications; confidential relationship; penalty; civil action. Provides that any person who without lawful authority intercepts, monitors, examines, or otherwise accesses electronic transmissions of messages, data, signals, or other communications that are not intended for public disclosure from any person to another with whom such person is in a confidential relationship is guilty of a Class 1 misdemeanor. The bill defines a "confidential relationship" as a relationship between (i) a husband and wife; (ii) an attorney and client; (iii) a licensed practitioner of the healing arts and patient; (iv) a licensed professional counselor, licensed clinical social worker, licensed psychologist, or licensed marriage and family therapist and client; or (v) a clergy member and person seeking spiritual counsel or advice. The bill also creates a civil cause of action for the person whose electronic transmissions of messages, data, signals, or other communications have been intercepted, monitored, examined, or otherwise accessed against the person who without lawful authority intercepted, monitored, examined, or otherwise accessed such transmissions and any person who facilitated or allowed such interception, monitoring, examination, or access.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Preliminary; indeterminate, see Item 8.

**8. Fiscal Implications:** The Virginia Information Technologies Agency (VITA), in consultation with the Office of the Attorney General (OAG), indicates that this bill would have little impact on VITA or state agencies due to (i) the principal of sovereign immunity; (ii) that there exists substantial authority in the *Code of Virginia* for VITA to administer and secure state IT systems and data enough to constitute "lawful authority"; and (iii) that due to Freedom of Information Act (FOIA) requests, messages and data sent through the state's network are subject to public disclosure upon request.

Although insufficient data exists to determine the fiscal impact due to this proposal, the proposed legislation could result in an increase in the jail population since Class 1 misdemeanor outcomes result in sentences of up to 12 months in jail (and a fine up to

\$2,500). 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 significant 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 FY2013 Jail Cost Report (November 1, 2014), the estimated total state support for local and regional jails averaged \$30.54 per state inmate, per day in FY 2013.

**9. Specific Agency or Political Subdivisions Affected:** Compensation Board, local and regional jails, VITA, Office of the Attorney General

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.

Date: January 15, 2015

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