

## Department of Planning and Budget 2017 Fiscal Impact Statement

**1. Bill Number: HB 2039**

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

**2. Patron: Miller**

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

**4. Title: Child pornography**

**5. Summary:**

Current law sets out a system of discretionary sentencing guidelines to be used by circuit court judges in felony cases. It directs the Virginia Criminal Sentencing to develop, maintain and modify discretionary sentencing guidelines that take into account historical data, when available, concerning sentences imposed for felony offenses committed on or after January 1, 1995, and such other factors as may be deemed relevant to sentencing. The statutes require that individuals with current or prior convictions for violent felony offenses receive enhancements on the guidelines that increase the recommended sentences for those offenders. The guidelines applicable to each case must be prepared for the court and reviewed by the judge prior to sentencing. Judicial compliance with the guidelines is discretionary.

The proposed legislation directs the Commission to make specific modifications to the sentencing guidelines for the possession of child pornography. Under the proposal, any defendant convicted of possessing child pornography must automatically be recommended for a sentence range that includes a prison term. Furthermore, the midpoint of the sentencing guidelines range for possession of child pornography would be increased by 100% in cases in which the defendant has no previous conviction for a violent offense, by 200% in cases in which the defendant has previously been convicted of a violent felony carrying a statutory maximum penalty of less than 40 years, and by 400% in cases in which the defendant has previously been convicted of a violent felony with a statutory maximum of 40 years or more.

**6. Budget Amendment Necessary: Yes. Item 394.**

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

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2018	\$989,660	General
2019	\$0	

2020	\$0	
2021	\$0	
2022	\$0	
2023	\$0	

## **8. Fiscal Implications:**

By requiring that the sentencing guidelines for offenders convicted of possession of child pornography require a prison sentence and by increasing the mid-points of the guidelines, the proposed legislation is projected to result in additional persons being sentenced to prison for longer terms.

Pursuant to §30-19.1:4 of the Code of Virginia, the Virginia Criminal Sentencing Commission estimates a fiscal impact of \$989,660 (the highest annual cost over the next six years). The amount is based on the projection that the legislation will result in 30 additional inmates being incarcerated in prison.

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

Virginia Criminal Sentencing Commission  
Department of Corrections  
Local and regional jails.

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

## **11. Other Comments:** None.

**Date:** 1/27/2017