

## Department of Planning and Budget 2018 Fiscal Impact Statement

**1. Bill Number:** HB638

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

**2. Patron:** Collins

**3. Committee:** Courts of Justice

**4. Title:** Trespass; electronic device; penalty.

**5. Summary:** Prohibits any person who, after being given notice to desist, from knowingly and intentionally causing any electronic device to enter the area of a dwelling house of another person or the curtilage thereof with the specific intent to coerce, intimidate, or harass any other person. Violation of this provision is punishable as a Class 3 misdemeanor. A second or subsequent conviction of this provision is punishable as a Class 2 misdemeanor.

The bill prohibits anyone who is required to register with the Sex Offender and Crimes Against Minors Registry from using or operating an unmanned aircraft system to knowingly and intentionally follow, contact, or capture images of another person. In addition, the bill prohibits any respondent of a permanent protective order from using or operating an unmanned aircraft system to knowingly and intentionally follow, contact, or capture images of the petitioner of the protective order, or members of the petitioner's family. Violation of these provisions is punishable as a Class 1 misdemeanor.

The bill expands the prohibition of regulating the use of privately owned, unmanned aircraft to all political subdivisions and not only to localities and allows the operation of an unmanned aircraft system for any lawful purpose, provided that the operation of such system is consistent with federal regulations.

**6. Budget Amendment Necessary:** No

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

**8. Fiscal Implications:** A Class 3 misdemeanor for a first offense of trespass with an electronic device as defined by this bill is punishable by a fine of up to \$500. All revenue collected from such fines is deposited into the Literary Fund. However, it is not possible to estimate either the number of convictions that may result or the amount of each fine that may be assessed under this legislation. Therefore, the impact of a first offense of using an electronic device to trespass cannot be determined.

A Class 2 misdemeanor for a second or subsequent violation of trespass with an electronic device as defined by this bill is punishable by up to six months in jail, a fine of up to \$1,000, or both. All revenue collected from these fines will be deposited into the Literary Fund. As

with a first offense, there is not enough information to estimate the amount of revenue that may result from a second offense of this provision. Further, the presiding judge will decide if there is to be any time served in jail. There is not enough information available to reliably estimate the number of additional inmates in jail that could result from this proposal; 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 2017), the estimated total state support for local jails averaged \$34.58 per inmate, per day in FY 2016.

Anyone convicted of a Class 1 misdemeanor as a result of improper use of unmanned aircraft as defined by this bill is subject to a sentence of up to 12 months in jail. As previously noted, 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 at the same per-diem and per-inmate operational rates noted above, specifically \$4.00 per day for each misdemeanor or otherwise local responsible prisoner held in a jail and an average cost of \$34.58 per inmate, per day, according to the Compensation Board's most recent Jail Cost Report (November 2017).

Information from the Department of Aviation was not readily available.

**9. Specific Agency or Political Subdivisions Affected:** Local and Regional jails, Courts.

**10. Technical Amendment Necessary:** None

**11. Other Comments:** None