

## Department of Planning and Budget 2020 Fiscal Impact Statement

**1. Bill Number:** HB623

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

**2. Patron:** Simon

**3. Committee:** Courts of Justice

**4. Title:** Gender-neutral terms; prohibitions on same-sex marriage and civil unions removed from Code.

**5. Summary:** This bill replaces gender-specific terms with gender-neutral terms throughout the Code of Virginia (Code). The bill also repeals statutory prohibitions on same-sex marriage and civil unions that were invalidated by *Obergefell v. Hodges*, 576 U.S. \_\_\_\_ (June 26, 2015) and modifies laws regarding children born through assisted conception to make them applicable to both opposite-sex and same-sex married couples. It also changes language in the Code pertaining to married individuals, and their rights stemming from their married status, to gender neutral terms. The proposal repeals the adultery statute (§ 18.2-365) and amends other Code sections to replace references to “adultery” with the phrase “sexual intercourse.”

Along with the repeal of the adultery statute (§ 18.2-365), the proposal affects five Code sections relating to criminal offenses. In § 18.2-49 (abduction), the proposal replaces “female under sixteen years of age” with “child under 16 years of age.” In § 18.2-362 (bigamy), “husband” and “wife” are replaced with “such person’s spouse.” In § 18.2-366 (sexual intercourse by persons forbidden to marry), gender-specific terms are modified to gender-neutral terms. In § 18.2-368 (leaving wife for prostitution), the proposal replaces “wife” with “spouse.” In § 18.2-417 (slander and libel), “female” is replaced with “person.” Under current law, these carry criminal penalties, ranging from a Class 3 misdemeanor (slander and libel) to Class 3 felonies (sexual acts with a family member when family member is 13 to 17 years of age).

**6. Budget Amendment Necessary:** Yes. Item 402.

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

**8. Fiscal Implications:** This bill would expand the number of people who could possibly be convicted of a felony or misdemeanor. 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. Ultimately, the presiding judge will decide if there is to be any time served in jail; 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 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 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

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 854, 2019 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