

## Department of Planning and Budget 2020 Fiscal Impact Statement

**1. Bill Number:** SB242 E

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

**2. Patron:** Marsden

**3. Committee:** Courts of Justice

**4. Title:** Carnal knowledge of an inmate, parolee, probationer, arrestee, detainee, or pretrial defendant.

**5. Summary:** Current law prohibits carnal knowledge of an inmate, parolee, probationer, detainee, pretrial defendant or post-trial offender by an employee of, or a volunteer with, a state or local correctional facility or regional jail, the Department of Corrections, the Department of Juvenile Justice, a secure facility or detention home, a state or local court services unit as defined in § 16.1-235 (probation, parole related services), a local community-based probation services agency, or a pretrial services agency. Violations of this provision are punishable as a Class 6 felony. The engrossed bill adds law-enforcement officers to the current list of persons subject to the Class 6 felony and expands the list of those protected under the current law to include arrestees.

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

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

**8. Fiscal Implications:** For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to 12 months in jail, or one to five years in prison. 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 the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently 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 prisoner. 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:** The engrossed bill includes an enactment clause stating that this act will not become effective unless an appropriation effectuating the purposes of this act is included in a general appropriation act passed in 2020 by the General Assembly that becomes law.