

Department of Planning and Budget 2021 Fiscal Impact Statement

1. Bill Number: HB2309

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

2. Patron: Brewer

3. Committee: Courts of Justice

4. Title: Condition of parole; Sex Offender and Crimes Against Minors Registry; penalty.

5. Summary: Provides that any person released on parole who was convicted of murder, or any Tier I, Tier II, or Tier III offense, as defined in the Code, who is not required to be registered in the Commonwealth with the Sex Offender and Crimes Against Minors Registry shall be required to register, reregister, and verify his information with the Registry as a condition of his parole.

6. Budget Amendment Necessary: Yes. Item 402.

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

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2021			
2022	\$50,000		General
2023			
2024			
2025			
2026			
2027			

8. Fiscal Implications: The Department of State Police (VSP) is responsible for administering the Sex Offender and Crimes Against Minors Registry (the Registry), performing checks on registered offenders, and investigating potential violations. According to VSP, the proposed legislation is not anticipated to have a fiscal impact on agency operations.

According to the Department of Corrections (DOC), this bill may increase the number of parolees who require community supervision. However, the fiscal impact on the agency cannot be determined because there is no way to know the number of offenders who may be released on parole and required to register, according to the provisions of the bill. It costs DOC \$6.99 per day for GPS monitoring of sex offenders. However, any potential additional costs related to GPS monitoring cannot be determined at this time.

The proposed legislation requires parolees who were convicted of murder or any Tier I, Tier II, or Tier III offense to register, reregister, and verify his information with the Registry. A first registry violation committed by an offender who is not defined as sexually violent is a Class 1 misdemeanor pursuant to § 18.2-472.1. A Class 1 misdemeanor is punishable by up to 12 months in prison or a fine of not more than \$2,500, or both. A second or subsequent Registry violation is a Class 6 felony, punishable by a term of imprisonment of between one and five years, or confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. For sexually violent offenders, a first Registry violation is chargeable as a Class 6 felony, and any second or subsequent violations are chargeable as a Class 5 felony, punishable by a term of imprisonment of between one and 10 years, or confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

Based upon FY 2019 and FY 2020 Sentencing Guideline data obtained by the Virginia Criminal Sentencing Commission, a felony conviction for a Registry violation under § 18.2-472.1 was the primary, or most serious, offense in 478 cases. Of those, 63 percent of offenders received a local-responsible (jail) term with a median sentence of four months. Another 17.5 percent were given a state-responsible (prison) term for which the median sentence was 1.1 years. The remaining 19.5 percent did not receive an active term of incarceration to serve after sentencing.

Because the bill expands the applicability of existing felonies and misdemeanors by increasing the number of offenders required to report to the Registry, it may increase future state prison bed needs in the Commonwealth. However, available data is not sufficient to estimate the number of cases under the proposed legislation or estimate the overall impact. Accordingly, the magnitude of the impact on prison bed space cannot be determined at this time.

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 56, 2020 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

There is no anticipated fiscal impact on the Department of Juvenile Justice (DJJ) as a result of the provisions of this bill.

The proposed legislation may also increase the local-responsible jail bed space needs, however the extent of the impact cannot be determined at this time using existing data. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant 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 varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2020), the estimated total state support for local jails averaged \$34.59 per inmate, per day in FY 2019.

9. Specific Agency or Political Subdivisions Affected: Department of State Police,
Department of Corrections, Parole Board, and local and regional jails.

10. Technical Amendment Necessary: No.

11. Other Comments: None.