

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB288

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: Gooditis

3. Committee: Committee Referral Pending

4. Title: Criminal sexual assault; definition of sexual abuse; complaining witness under age 13; penalty.

5. Summary: Includes in the definition of "sexual abuse" the intentional touching of any part of a complaining witness's body, on either the skin or the material covering the complaining witness's body, if the complaining witness is under the age of 13 and the act is committed with the intent to sexually molest, arouse, or gratify any person. The bill repeals the Class 1 misdemeanor prohibiting adult penetration of the mouth of a child under the age of 13 with lascivious intent.

6. Budget Amendment Necessary: Yes. Item 402.

7. Fiscal Impact Estimates: Preliminary (see Item 8 below).

8. Fiscal Implications: The bill expands the definition of "sexual abuse" to include instances in which the complaining witness is under the age of 13 and the accused intentionally touches any part of the complaining witness' body, either on the skin or the material covering the complaining witness' body. According to the Virginia Criminal Sentencing Commission, by expanding the definition of "sexual abuse," the proposal potentially expands the applicability of other provisions of existing law that directly or indirectly reference the definition of sexual abuse and also potentially expands the number of offenders who would be required to register with the Sex Offender and Crimes Against Minors Registry. Under existing law, the first Sex Offender Registry violation committed by an offender who is not defined as sexually violent is punishable as a Class 1 misdemeanor; a second or subsequent Registry violation is a Class 6 felony. For an offender defined as sexually violent, the first Registry violation is a Class 6 felony, while a subsequent violation is a Class 5 felony.

This proposal could therefore result in an increase in the number of persons sentenced to jail or prison. However, there is not sufficient data to estimate the impact of the proposed legislation on state-responsible (prison) bed space. In such cases, Chapter 854 of the 2019 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

Additionally, there is not enough information available to reliably estimate how many additional inmates in jail could result from this proposed legislation. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. 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. 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 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

The proposed legislation is not expected to have a fiscal impact on the Virginia State Police.

9. Specific Agency or Political Subdivisions Affected: Department of State Police; Department of Corrections; Local and regional jails; Local law enforcement; Courts; and Commonwealth's Attorneys.

10. Technical Amendment Necessary: No.

11. Other Comments: None.