

Department of Planning and Budget 2021 Fiscal Impact Statement

1. Bill Number: HB2254

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

2. Patron: Convirs-Fowler

3. Committee: Courts of Justice

4. Title: Transmission of obscene image or video; penalty.

5. Summary: Currently, any person who with the intent to coerce, intimidate, or harass another person, uses a computer or computer network to communicate obscene, vulgar, profane, lewd, lascivious, or indecent language, or make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act, is guilty of a Class 1 misdemeanor. In addition, under § 18.2-427 any person who uses obscene, vulgar, profane, lewd, lascivious, or indecent language, or makes any suggestion or proposal of an obscene nature, or threatens any illegal or immoral act with the intent to coerce, intimidate, or harass any person, over any telephone or citizens band radio, in this Commonwealth, is guilty of a Class 1 misdemeanor. The proposed legislation prohibits the transmission of any obscene image or video with the intent to coerce, harass, or intimidate over any computer, cellular telephone, other wireless communications device, or other public airway. A violation of the prohibition is a Class 1 misdemeanor.

6. Budget Amendment Necessary: Indeterminate.

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

8. Fiscal Implications: By applying the same prohibition to transmitting an obscene image or video that are currently in effect for committing harassment through the use of obscene language or communications while using a computer or telephone devices, this proposal may increase the number of persons found guilty of a Class 1 misdemeanor. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail and a fine of not more than \$2,500, either or both.

According to the Virginia Criminal Sentencing Commission, not enough information is 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 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 Corrections, Department of Juvenile Justice, Local and regional jails, Local law enforcement agencies, Courts, Commonwealth's Attorneys, and Public Defenders Offices.

10. Technical Amendment Necessary: No

11. Other Comments: None