

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: HB1332 H1

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

2. Patron: Greenhalgh

3. Committee: Public Safety

4. Title: Covering a security camera in a correctional facility; penalty.

5. Summary: The substitute bill provides that any person who intentionally covers, removes, damages, renders inoperable or otherwise obscures a security camera, as defined in the bill, without the permission of the sheriff, jail superintendent, warden, or Director of the Department of Corrections or Department of Juvenile Justice is guilty of a Class 1 misdemeanor. The bill also provides that any person who intentionally covers, removes, damages, renders inoperable or otherwise obscures a security camera with the intent of inhibiting or preventing a security camera from recording or transmitting a photograph, motion picture, or other digital image of the commission of a felony is guilty of a Class 6 felony.

6. Budget Amendment Necessary: Yes. Item 404.

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

8. Fiscal Implications: This bill establishes new Class 1 misdemeanor and Class 6 felony penalties related to tampering with security cameras in correctional facilities. According to the Virginia Criminal Sentencing Commission (VCSC), existing data sources do not contain sufficient detail to identify the number of additional individuals who would be convicted of an offense under the provisions of this bill. However, offenders convicted of the proposed felony may be sentenced similarly to those sentenced under existing provisions governing the destruction of property by an inmate (§ 53.1-203).

According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2020 and FY 2021, 48 offenders were convicted of a Class 6 felony under § 53.1-203 for the destruction of property by an inmate. In 30 of the 48 cases identified, the felony violation of § 53.1-203 was the primary, or most serious offense. Twenty (66.7%) were sentenced to local-responsible (jail) terms with a median sentence of three months. Two (6.7%) were given state-responsible (prison) terms of 1.5 years and 3.3 years, respectively. The remaining eight offenders (26.7%) did not receive an active term of incarceration to serve after sentencing.

By creating new Class 6 felony and Class 1 misdemeanor offenses, the proposal could increase the state-responsible (prison) and local-responsible (jail) bed space needs of the Commonwealth. For someone convicted of a Class 6 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. 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.

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 misdemeanant or otherwise local-responsible prisoner held in a jail and \$12.00 a day for each state-responsible prisoner. It also funds a 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 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

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 552, 2021 Acts of Assembly, Special Session I, 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, courts, Commonwealth Attorneys, Public Defenders

10. Technical Amendment Necessary: No

11. Other Comments: This bill is the same as SB700 S1.