

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: HB2398

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Bell

3. Committee: Courts of Justice

4. Title: Sexual extortion; penalties.

5. Summary: Adds sexual extortion, defined in the bill as when an accused maliciously disseminates or sells, or threatens to maliciously disseminate or sell, a videographic or still image created by any means whatsoever that depicts the complaining witness or such complaining witness's family or household member who is totally nude, or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast, to the list of actions that, when used to accomplish certain acts against the will of another person, constitute rape, forcible sodomy, object sexual penetration, aggravated sexual battery, or sexual battery.

6. Budget Amendment Necessary: Yes. Item 404.

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

8. Fiscal Implications: The proposed bill establishes the definition of sexual extortion, and sexual extortion to the list of acts that would constitute rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual battery. The bill expands the applicability of several existing felonies, as a result the proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, according to the Virginia Criminal Sentencing Commission, existing databases do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. Thus, the magnitude of the impact on prison beds cannot be quantified. Due to the lack of data, the VCSC 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 2, 2022 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

Additionally, according to the Virginia Criminal Sentencing Commission (VCSC), 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 \$15.00 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 2022), the estimated total state support for local jails averaged \$40.39 per inmate, per day in FY 2021.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, local and regional jails, state and local law enforcement agencies, Courts, Public Defender's Office, Commonwealth's Attorneys' Offices.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.