

## Department of Planning and Budget 2023 Fiscal Impact Statement

**1. Bill Number:** HB2398ER

**House of Origin**    ☐ Introduced    ☐ Substitute    ☐ Engrossed

**Second House**    ☐ In Committee    ☐ Substitute    ☒ Enrolled

**2. Patron:** Bell

**3. Committee:** Passed both houses.

**4. Title:** Sexual extortion; penalties.

**5. Summary:** The proposal adds a new code section (18.2-59.1) which provides that it is a Class 5 felony for any person to maliciously threaten in writing, including an electronically transmitted communication producing a visual or electronic message, (i) to disseminate, sell, or publish a videographic or still image, created by any means whatsoever, or (ii) to not delete, remove, or take back a previously disseminated, sold, or published videographic or still image, created by any means whatsoever, that depicts the complaining witness or such complaining witness's family or household member in the nude or in a state of undress with the intent to cause the complaining witness to engage in sexual intercourse, etc., and they thereby engage in sexual intercourse, etc., with the complaining witness. However, any adult who violates the proposed section with a person under the age of 18 is guilty of a felony punishable by imprisonment of one to 20 years and a fine of up to \$100,000. A prosecution pursuant to this section may be in the county, city, or town in which the communication was either made or received.

**6. Budget Amendment Necessary:** Yes. Item 404.

**7. Fiscal Impact Estimates:** Final (see Item 8).

**8. Fiscal Implications:** According to the Virginia Criminal Sentencing Commission (VCSC), by establishing new felony offenses, the proposal may result in additional felony convictions and increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data are insufficient to estimate the number of new felony convictions likely to result from enactment of the proposal.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

There is not enough information available to reliably estimate the increase in local-responsible (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. 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 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.