

Department of Planning and Budget 2023 Fiscal Impact Statement

1. **Bill Number:** SB973 ER

House of Origin Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. **Patron:** Peake

3. **Committee:** Passed both Houses

4. **Title:** Civil commitment of sexually violent predators; penalty.

5. **Summary:** The substitute bill creates a Class 6 felony for any civilly committed sexually violent predator who tampers with or in any way attempts to circumvent the operation of his GPS equipment while on conditional release.

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

7. **Fiscal Impact Estimates:** Final. See Item 8 below.

8. **Fiscal Implications:** According to the Virginia Criminal Sentencing Commission (VCSC), a review of fiscal year (FY) 2017-FY2022 Circuit Court Case Management System data identified two convictions for a sexually violent predator leaving the state without permission or failing to return, in violation of § 37.2-918. In both cases, this offense was a companion charge to a failure to register as a Tier III sex offender. One defendant was sentenced to a state-responsible (prison) term of 13 months on both offenses to run concurrently. The other defendant was sentenced to 14 months imprisonment for failing to register and received a one-year suspended sentence on the violation of § 37.2-918. However, it is not unknown if these individuals, in the course of the offenses, also tampered with their tracking devices.

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. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

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.

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 2, 2022 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill. The introduced budget (HB1400/SB800) included \$50,000 from the general fund to account for this legislation that creates a Class 6 felony penalty for sexually violent predators who abscond.

This bill is not expected to have a fiscal impact on the Office of Attorney General.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, local and regional jails, Courts, Commonwealth's Attorneys, Office of the Attorney General, Public Defender's Offices

10. Technical Amendment Necessary: No

11. Other Comments: None