

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: HB1525

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

2. Patron: Freitas

3. Committee: Communications, Technology and Innovation

4. Title: Unauthorized creation of image of another; AI-generated image; penalties.

5. Summary: Creates a Class 1 misdemeanor for any person who knowingly and intentionally creates any videographic or still image using artificial intelligence of any nonconsenting person if that person is (i) totally nude, performing sexual acts, clad in undergarments, or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast and (ii) such videographic or still image appears to be or is intended to appear to be such nonconsenting person; if such nonconsenting person is under the age of 18, the offender is guilty of a Class 6 felony.

6. Budget Amendment Necessary: Yes, Item 390.

7. Fiscal Impact Estimates: Preliminary, see Item 8 below.

8. Fiscal Implications: The bill expands an existing Class 1 misdemeanor for the unlawful creation of an image of another individual, to include any videographic or still image using artificial intelligence of any nonconsenting person that is totally nude, performing sexual acts, clad in undergarments, or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast. 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.

Under the provisions of the bill, the penalty is elevated to a Class 6 felony if such violation involves a nonconsenting person under the age of 18. Anyone convicted of a Class 6 felony is subject 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.

According to the Virginia Criminal Sentencing Commission (VCSC), there is not enough information available to reliably estimate the increase in jail or prison population as a result of this proposal. 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 1, 2023 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

Any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$5.00 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 2023), the estimated total state support for local jails averaged \$45.76 per inmate, per day in FY 2022.

9. Specific Agency or Political Subdivisions Affected: State and local law enforcement agencies, Department of Criminal Justice Services, Courts, Commonwealth's Attorneys, Public Defenders, local and regional jails.

10. Technical Amendment Necessary: No.

11. Other Comments: None.