



Fiscal Impact Statement for Proposed Legislation
Virginia Criminal Sentencing Commission

House Bill 1998
(Patron – Walker)

LD#: 25100006

Date: 09/24/2024

Topic: Sexual extortion

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: \$50,000 * • Local Adult Correctional Facilities: Cannot be determined • Adult Community Corrections Programs: Cannot be determined 	<ul style="list-style-type: none"> • Juvenile Direct Care: Cannot be determined** • Juvenile Detention Facilities: Cannot be determined** <p>**Provided by the Department of Juvenile Justice</p>
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* 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 2024, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible (prison) beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The 2023 General Assembly added § 18.2-59.1 to the *Code of Virginia* to create the crime of sexual extortion. Under the current provision, a person is guilty of sexual extortion if he threatens to disseminate a videographic or still image or to not delete a videographic or still image that depicts a person or a family or household member in the nude or in a state of undress with the intent to cause the person to engage in sexual intercourse, other sexual act, or an act of sexual battery. Sexual extortion is punishable as a Class 5 felony or, if an adult commits the offense with a person under the age of 18, a felony punishable by imprisonment of 1 to 20 years.

The proposal would expand § 18.2-59.1 to include acts in which a person maliciously threatens eviction, loss of housing, property damage, or any financial loss with the intent to cause another person to engage in sexual intercourse, other sexual act, or an act of sexual battery. Such acts would be punishable in the same manner as the existing crime of sexual extortion.¹

Analysis:

Existing data do not contain sufficient detail to determine the number of cases that would be affected by the proposal. The current statute has only been in effect since July 1, 2023. According to Circuit Court Case Management System (CMS) data, there were no convictions under § 18.2-59.1 during the first year following its enactment (FY2024). Thus, no data are available yet to examine sentencing patterns under this section of the *Code*.

¹ Under current law, felony offenses defined § 18.2-59.1 are eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby offenders will serve a minimum of 67% of the sentence ordered by the court. The proposed legislation does not change the earned sentence credits available to offenders convicted of these felonies.

Offenders convicted of the proposed felonies may be sentenced similarly to individuals convicted under other existing provisions. The proposed offense for sexual extortion would be a Class 5 felony. During FY2023 and FY2024, Circuit Court CMS data indicate that, among defendants convicted of a completed Class 5 felony sex offense as the primary (or most serious) offense, 62.1% received a state-responsible (prison) term. For defendants sentenced to prison, the median sentence was 2.0 years. Another 18.1% of the defendants received a local-responsible (jail) term for which the median sentence was 4.0 months. The remaining 19.8% of defendants did not receive an active term of incarceration to serve after sentencing.

The proposal also includes a felony punishable by 1 to 20 years for sexual extortion of a minor. Available Sentencing Guidelines data for FY2023 and FY2024 reveal that defendants convicted of aggravated sexual battery of a child under §§ 18.2-67.3(A,1) or § 18.2-67.3(A,4,a), also punishable by 1 to 20 years, received a state prison term in the majority (84.3%) of cases. For those defendants given a prison term, the median sentence was 5.0 years.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding § 18.2-59.1, the proposal may result in additional felony convictions and increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal; therefore, the magnitude of the impact on prison beds cannot be determined.

Local adult correctional facilities. Similarly, the proposal may increase the local-responsible (jail) bed space needs of the Commonwealth; however, the magnitude of the impact cannot be quantified.

Adult community corrections programs. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia’s Sentencing Guidelines. As new felonies, convictions for the proposed offenses initially would not be covered by the Sentencing Guidelines as the primary (or most serious) offense. Such convictions, however, could augment the Guidelines recommendation as additional offenses if the most serious offense at sentencing is covered by the Guidelines. Felonies in § 18.2-59.1 are not defined as violent under § 17.1-805(C) for the purposes of the Guidelines. No adjustment to the Guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or an alternative commitment placement) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal’s impact on the bed space needs of juvenile detention facilities cannot be determined.

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 2024, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.