



# Fiscal Impact Statement for Proposed Legislation

## Virginia Criminal Sentencing Commission

### House Bill 2429 (Patron – Oates)

LD#: 25100455

Date: 11/01/2024

Topic: Stalking via electronically transmitted communication

#### Fiscal Impact Summary:

<ul style="list-style-type: none"> <li>• <b>State Adult Correctional Facilities:</b> \$50,000 *</li> <li>• <b>Local Adult Correctional Facilities:</b> Cannot be determined</li> <li>• <b>Adult Community Corrections Programs:</b> Cannot be determined</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Juvenile Direct Care:</b> Cannot be determined **</li> <li>• <b>Juvenile Detention Facilities:</b> Cannot be determined **</li> </ul> <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 proposal amends § 18.2-60.3, related to stalking. Currently, it is a Class 1 misdemeanor to engage in conduct, including the use of electronically transmitted communication, that is intended to instill in the victim the fear of death, sexual assault, or bodily injury to that person or to his or her family or household member. The penalty for a second conviction for stalking within five years is a Class 6 felony.<sup>1</sup> The proposed language clarifies that the term “electronically transmitted communication” includes the use or monitoring of location services through an application or device to remotely determine the position or movement of another person. It also clarifies that the provisions apply even if the person being tracked had previously given consent for the accused to use or monitor such location services.

#### Analysis:

General District Court Case Management System (CMS) data for fiscal year (FY) 2023 and FY2024 indicate that 214 offenders were convicted of a misdemeanor for stalking in violation of § 18.2-60.3. Of these offenders, 61.7% were given a local-responsible (jail) term for which the median sentence was 3.0 months. The remaining offenders did not receive an active term of incarceration to serve after sentencing.

<sup>1</sup> Under current law, the felony offense defined in § 18.2-60.3 is ineligible for the enhanced sentence credits specified in § 53.1-202.3; therefore, individuals convicted of a felony under this section must serve a minimum of 85% of the sentence ordered by the court. The proposed legislation does not change the earned sentence credits available to these offenders.

Juvenile and Domestic Relations (JDR) Court CMS data for the same two-year period indicate that 125 offenders were convicted of a misdemeanor under § 18.2-60.3 for stalking. The majority (64.8%) of these offenders were sentenced to a local-responsible (jail) term. The median sentence in these cases was also 3.0 months.

According to Circuit Court CMS data for FY2023 and FY2024, four offenders were convicted of a Class 6 felony under § 18.2-60.3(B) as the primary, or most serious, offense. One of the offenders received a local-responsible (jail) sentence of 15 days, while the remaining three offenders received state-responsible (prison) terms with a median sentence of 5.0 years.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By clarifying the definition of “electronically transmitted communication” and applying the provisions even if consent has been given, the proposal may result in additional Class 6 felony convictions for second or subsequent stalking offenses. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of offenders who would be convicted of a felony due to the proposal. Therefore, the impact on prison bed space needs cannot be quantified.

**Local adult correctional facilities.** Similarly, the proposal may increase local-responsible (jail) bed space needs. Because the number of new convictions resulting from the proposal cannot be determined, the impact on jail bed space needs cannot be estimated.

**Adult community corrections resources.** 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 state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

**Virginia’s Sentencing Guidelines.** Convictions under § 18.2-60.3 are not covered by the Sentencing Guidelines when the offense is the primary, or most serious, offense in a case. Such convictions, however, could augment the Guidelines recommendation (as additional offenses) if the most serious offense at sentencing is covered by the Guidelines. No adjustment to the Guidelines would be necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice (DJJ), the impact of the proposal on juvenile correctional center (JCC) 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.

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**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.**