



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill 778 Amendment in the Nature of a Substitute (Patron prior to substitute – Obenshain)

LD #: 26107281

Date: 02/05/2026

Topic: Grooming of minors

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**
Cannot be determined, likely to be small

- **Juvenile Direct Care:**
None (\$0)**
- **Juvenile Detention Facilities:**
None (\$0)
**Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 725 of the Acts of Assembly of 2025 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 § 18.2-374.4 to prohibit any person at least 18 years of age from displaying any obscene items, including child pornography or grooming video or materials, to any child younger than 13 years old when such display is designed to entice, solicit, or encourage the child to engage in a variety of sexual activity. The proposal also redefines “grooming video or materials” as any obscene image, cartoon, or video of any person. “Obscene items” are defined using §§ 18.2-372 and 18.2-373. A violation of these provisions would qualify as a Class 6 felony.

Under current law, only the display of child pornography or grooming video or materials would constitute a violation of the statute, meaning it may be legal to display obscene items to children under age 13 if the items fall into neither of those categories. Currently, “grooming video or materials” only includes materials depicting a child engaged in sexual activity.

Analysis:

A review of Circuit Court Case Management System (CMS) data from Fiscal Year (FY) 2020 through FY2025 revealed 7 convictions for the Class 6 felony under § 18.2-374.4. In only one of those cases did the conviction act as the primary, or most serious, offense in the sentencing event. That case received no incarceration.

Impact of Proposed Legislation:

State adult correctional facilities. By broadening the prohibition on what can be shown to children under 13 years old by an adult, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal.

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

Adult community corrections programs. Because the proposal could result in additional convictions with supervision requirements for the offenders, the proposal may affect adult community corrections resources. The potential impact on community corrections resources cannot be quantified.

Virginia's Sentencing Guidelines. The Class 6 felony affected by the proposal is not currently covered by the Sentencing Guidelines when the offense is the primary, or most serious, offense in a case. Such a conviction could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. The Class 6 felony is defined as violent under § 17.1-805(C) for Sentencing Guidelines purposes. No adjustment to the Guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

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 725 of the Acts of Assembly of 2025 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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