



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 629 **Amendment in the Nature of a Substitute** *(Patron Prior to Substitute – Callsen)*

LD#: 26105586

Date: 02/13/2026

Topic: Sexual extortion

Fiscal Impact Summary:

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

- **Juvenile Direct Care:**
Cannot be determined**
- **Juvenile Detention Facilities:**
Cannot be determined**

**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 §§ 18.2-59.1 and 18.2-386.1 to expand the applicability of offenses related to sex extortion and nonconsensual pornography. Currently, § 18.2-59.1 criminalizes as Class 5 felonies the use of pornographic images or the threat of financial loss to coerce a person to perform sexual acts when that coercion is successful, with steeper penalties for underaged victims. Meanwhile, the current version of § 18.2-386.1 criminalizes as a Class 1 misdemeanor the creation of images or videos where a nonconsenting person is depicted as nude, in their undergarments, or in a state of undress that exposes the pubic area, buttocks, or female breast.

The proposal modifies § 18.2-59.1 to clarify that when the offender's coercion is unsuccessful, the offender is guilty of attempted sexual extortion and will be punished according to § 18.2-26; specifically, the offender will be subject to a maximum of 5 years in prison if the victim is an adult and 10 years if the victim is underaged. The proposal modifies §§ 18.2-59.1 and 18.2-386.1 to add that even when the nonconsenting subject's genitals, pubic area, buttocks, or female breast are not exposed, the video or image depicting the subject is still a violation of the statute if the media qualifies as obscene under § 18.2-372.

Analysis:

Existing databases do not provide sufficient detail to estimate the number of defendants who would be affected by the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be quantified. However, offenders convicted as a result of the proposal expanding offense applicability may

be sentenced similarly to offenders convicted under the current versions of the statutes in question.

A review of Fiscal Year (FY) 2020 through FY2025 Circuit Court Case Management System (CMS) data revealed no offenders convicted of any felony under § 18.2-59.1 where that felony served as the primary, or most serious, offense. In contrast, that same dataset revealed 74 offenders convicted of either of the Class 6 felonies under § 18.2-386.1. In 41 of those cases, one of these felonies was the primary offense. In 24.4% of those cases, the offender received no incarceration. In 36.6% of cases, the offender received a local-responsible (jail) sentence with a median length of 6.0 months, while the remaining 39.0% of offenders received a state-responsible (prison) sentence with a median length of 2.0 years.

A review of FY2020 to FY2025 General District Court CMS data revealed that 19 offenders were convicted of a Class 1 misdemeanor under § 18.2-386.1. Of those, 31.6% received no incarceration, while the remaining 68.4% received a jail sentence with a median length of 1 month.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of several felonies, the proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of defendants who would be affected by the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. Similarly, the impact of the proposal on local-responsible (jail) bed space needs cannot be estimated.

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

Virginia's Sentencing Guidelines. None of the felonies modified by the proposal are currently covered by the Sentencing Guidelines. However, they may affect a guidelines recommendation if included as an additional offense. For Guidelines purposes, none of the modified felonies are defined as violent (§ 17.1-805(C)). 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 alternative commitment placement) bed space needs cannot be determined.

Juvenile detention facilities. According to the Department of Juvenile Justice, the impact of the proposal 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 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.