

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** HB697

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

2. **Patron:** Maldonado

3. **Committee:** Courts of Justice

4. **Title:** Synthetic media; expands applicability of provisions related to defamation, etc., penalty.

5. **Summary:** Expands the applicability of provisions related to defamation, slander, and libel to include synthetic media, defined in the bill. The bill makes it a Class 1 misdemeanor for any person to use synthetic media, defined in the bill, for the purpose of committing a criminal offense. The bill also authorizes the individual depicted in the synthetic media to bring a civil action against the person who violates such prohibition to recover actual damages, reasonable attorney fees, and such other relief as the court determines to be appropriate. The bill directs the Attorney General to convene a work group to study and make recommendations on the current enforcement of laws related to the use of synthetic media, including deepfakes, and any further action needed to address the issue of such use in fraudulent acts.

6. **Budget Amendment Necessary:** Yes, Item 1.

7. **Fiscal Impact Estimates:** Preliminary – See Item 8.

8. **Fiscal Implications:** The language in this bill expands the definition of slander and libel to include synthetic media. A defendant found guilty under the section is guilty of a Class 3 misdemeanor. A Class 3 misdemeanor is punishable by a fine of up to \$500. These offenses carry no jail time. All revenue collected from such fines is deposited into the Literary Fund. However, it is not possible to estimate either the number of convictions that may result or the amount of each fine that may be assessed under this legislation. Therefore, the impact of this bill cannot be determined.

The language in the bill also creates a Class 1 misdemeanor for anyone found guilty of using deceptive audio or visual media for the purpose of committing any crime prohibited by the chapter. 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.

There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays localities \$5.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail. It also funds a large 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.

The bill requires the Office of the Attorney General and Department of Law (OAG) to convene a workgroup to study and make recommendations on current enforcement of laws related to the use of synthetic media. The OAG indicates that the impact of this bill should be absorbed with current resources. The work group shall have at least one member of the House of Delegates and one member of the Senate who are also members of the Joint Commission on Technology and Science. The House of Delegates anticipates their portion of member compensation and travel expenses to be \$1,228. The Senate of Virginia anticipates their portion of member compensation and travel expenses to be \$1,228. Workgroups of this nature typically meet four times per year. As the report is due by November 1, 2024, these costs are based on two meetings in fiscal year 2025.

9. Specific Agency or Political Subdivisions Affected: Office of the Attorney General and Department of Law, House of Delegates, Senate of Virginia, Chief Information Officer of the Commonwealth

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: 2/8/2024