

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: HB1073

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

2. Patron: Leftwich

3. Committee: Courts of Justice

4. Title: Probation, revocation, and suspension of sentence; penalty.

5. Summary: Under current law, a court may fix the period of probation for up to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned. Current law caps any period of supervised probation to no more than five years from the release of the defendant from any active period of incarceration, with some exceptions. Current law also defines technical violation of probation by listing specific infractions committed by a probationer and limits the court's ability to impose active terms of incarceration depending on the number of technical violations a defendant has committed.

This bill repeals § 19.2-306.1, which sets limits on the lengths of probation and periods of suspended sentences, and removes limitations on the lengths of probation and suspended sentences that maybe fixed by the court. The bill also extends the time periods within which a court must issue process to notify the accused of a revocation hearing.

6. Budget Amendment Necessary: Yes, Item 404.

7. Fiscal Impact Estimates: Preliminary. See Item 8 below.

8. Fiscal Implications: This bill repeals the caps on sentences for technical violations, removes limitations on the lengths of probation and periods of suspended sentences, and restores the deadlines for handling revocations that were in effect prior to July 1, 2021. By removing the caps, some felony offenders may be sentenced to supervised probation terms greater than the current five-year limit, and sentences for some probationers found to have committed technical violations may be higher than under current law. Should additional offenders receive state-responsible (prison) terms for probation violations (compared to current law), the proposal may increase the future prison bed space needs of the Commonwealth. However, current data are insufficient to estimate the number of individuals that may be affected by the proposed changes.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 552, 2021 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

The provisions of this bill may also increase the bed space needs in jails. According to the VCSC, not enough information is 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 the localities \$4.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail. It also funds a portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020. The Commonwealth pays localities \$12.00 a day for any state-responsible prisoner held in a local jail.

The impact this bill may have on courts is not known at this time.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, local and regional jails, courts

10. Technical Amendment Necessary: No

11. Other Comments: None