

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: HB617

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

2. Patron: Bourne

3. Committee: Courts of Justice

4. Title: Discretionary sentencing guidelines; prior convictions and juvenile adjudications.

- 5. Summary:** Provides that, for the purposes of the discretionary sentencing, previous convictions shall not include (i) any adult conviction more than 10 years prior to the date of the commission of the present offense, unless the prior adult conviction was for a violent felony offense punishable by a maximum term of imprisonment of 40 years or more, the defendant was sentenced to an active prison term of more than 12 months for the offense, and the defendant has committed another violent felony within a 15-year period between the date of the defendant's sentencing for the prior offense and commission of the present offense and (ii) any juvenile adjudications of delinquency or any juvenile convictions, unless the juvenile was tried as an adult and the conviction was for a violent felony offense punishable by a maximum term of imprisonment of 40 years or more, the defendant was sentenced to an active prison term of more than 12 months, and the date of offense was within the 10 years preceding sentencing for the present offense.

The bill also provides that no juvenile adjudication of delinquency shall serve as evidence of an element of a felony status offense or other offense or as the basis for sentencing enhancement in an adult criminal case. A prior adult conviction and sentence shall not serve as evidence of an element of a felony status offense or other offense, and may not serve as the basis for a sentencing enhancement in an adult criminal case unless it meets the criteria outlined in the bill.

6. Budget Amendment Necessary: Yes, Item 52.

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

- 8. Fiscal Implications:** According to the Virginia Criminal Sentencing Commission (the Commission), the proposed legislation would require the Commission to revamp the Virginia's Sentencing Guidelines manual, revise the automated (web-based) Sentencing Guidelines application, and re-train thousands of Guidelines users around the Commonwealth on the new rules for scoring prior records on the Guidelines worksheets. The Commission last did a full manual reprint in 2020, at a cost of \$22,318, and reprints are typically done every three years. Additionally, the Commission pays the Department of Judicial Information Technology (DJIT) every year to program the web-based Guidelines

application with the latest changes; it is unknown at this time if DJIT will increase the amount they charge the Commission to make the changes required by the proposed legislation. Additionally, the Commission would need to ensure Guidelines users statewide are retrained to score prior records according to the rules proposed in the bill. The agency estimates this will cost about \$8,000, which is the amount needed for two trainers to conduct four weeks of training.

Information from the Department of Corrections (DOC) is not available at this time to assess fiscal impact on the agency's operations. This impact statement will be updated when information from DOC becomes available.

Any potential fiscal impact on local and regional jails is indeterminate at this time.

There is no anticipated fiscal impact on the Department of State Police (VSP), the Department of Juvenile Justice (DJJ), or the Courts as a result of the provisions of this bill, according to those agencies.

- 9. Specific Agency or Political Subdivisions Affected:** Department of State Police, Department of Corrections, Department of Juvenile Justice, Courts, Local and regional jails.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.