



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 758 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Adams, L.R.)

LD #: 22107402

Date: 03/03/2022

Topic: Probation terms and suspension of sentence

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)*
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined **
- **Juvenile Detention Facilities:**
Cannot be determined **

** Provided by the Department of Juvenile Justice

* 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) and/or local-responsible (jail) beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The 2021 General Assembly (Special Session I) passed legislation that limited the length of probation supervision, created new deadlines for notices of revocation hearings, defined technical violations, and restricted the time that may be imposed by a court when the defendant is found to have committed certain technical violations. Those provisions became effective on July 1, 2021.

The proposal amends §§ 19.2-303 and 19.2-303.1 of the *Code of Virginia*. Under §§ 19.2-303 and 19.2-303.1, the proposal provides that the court may fix the period of probation and the period of suspension for up to the statutory maximum period for which the defendant might originally have been sentenced to be imposed for any felony offense and up to two years for an offense punishable as a Class 1 misdemeanor. Currently, the limitation on periods of probation and periods of suspension is up to the statutory maximum period of imprisonment for any offense.

Furthermore, the proposal provides that any term of incarceration imposed upon a violation of the terms and conditions of probation or supervised probation shall not exceed the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned.

Analysis:

According to General District Court Case Management System (CMS) data for fiscal year (FY) 2020 and FY2021, there were 77,864 convictions for Class 1 misdemeanor offenses. Of these, 62.3% did not

indicate the period of probation or length of probation supervision ordered by the court. For the 29% of the cases where “unsupervised” probation, or a period of good behavior, was indicated, the median length of such period was two years.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation would keep the current limits on supervised probation terms and sentences for technical violations. The only substantial change during the six-year projection window would be increasing the period of probation for up to two years for a Class 1 misdemeanor. Therefore, the proposed legislation is not expected to increase the future state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. By specifying that the court may fix the period of probation for up to two years for any offense punishable as a Class 1 misdemeanor, the proposal may increase the future jail bed space needs of the Commonwealth. However, current data are insufficient to estimate the number of individuals likely to be affected by the proposed changes and the impact on sentencing. Therefore, the magnitude of the impact cannot be determined.

Adult community corrections resources. The impact on state community corrections resources and local community-based probation services cannot be estimated.

Virginia’s Sentencing Guidelines. The Sentencing Commission issued revised Probation Violation Guidelines, effective July 1, 2021. The Probation Violation Guidelines, which were revised based on analysis of sentencing outcomes in revocation cases, were designed to provide judges with a benchmark of the typical, or average, outcome in similar cases. The historically-based Guidelines were then modified to be compatible with the law that took effect on July 1, 2021, such that the Guidelines will not recommend more incarceration time than permitted under § 19.2-306.1. The Probation Violation Guidelines apply to violations of supervised probation committed by individuals on supervision as a result of a felony conviction.

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. The Department of Juvenile Justice reports that the proposal’s impact on the bed space needs of juvenile detention facilities cannot be determined.

Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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