

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB134E

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

2. Patron: Edwards

3. Committee: Senate Courts of Justice

4. Title: Juvenile and domestic relations district courts; Department of Juvenile Justice; jurisdiction.

5. Summary: Defines “underage person” as a person who is 18 or older but younger than 21 years of age. The bill raises the maximum age for delinquency matters in juvenile and domestic relations district courts from persons under 18 years of age to persons under 21. The bill adds underage persons to Code provisions concerning delinquency proceedings in juvenile and domestic relations district courts and circuit courts, and to criminal procedure Code sections that currently only apply to juveniles. The bill differentiates between juveniles and underage persons in specific circumstances, including consent for medical or mental health records or procedures, mental health screenings in secure detention facilities, and provisions regarding release on bail or recognizance. The engrossed version removes § 16.1-306, pertaining to the expungement of juvenile and domestic relations district court records. It also includes enactment clauses and specifies that the provisions of the bill apply prospectively and only to conduct or offenses occurring on or after January 1, 2024.

6. Budget Amendment Necessary: Yes. Items 42, 46, 311, 425, and 427.

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

8. Fiscal Implications: The proposed legislation expands criminal Code sections that currently only apply to juveniles to “underage persons,” defined as persons between the ages of 18 and 21. The Department of Juvenile Justice (DJJ) anticipates this will have a fiscal impact on the agency’s operations and bed capacity.

Court Services Unit (CSU)

DJJ’s Court Service Unit (CSU) provides services to the Juvenile & Domestic District Courts (J&D), including investigation, probation, parole, case management, and intake. An intake officer at the CSU reviews complaints and files a petition initiating formal court action.

According to DJJ, CSU probation officers averaged 8,696 intakes annually between FY 2017 and FY 2021 for 17-year olds. Assuming the same intake numbers annually for 18-, 19-, and 20-year-olds, DJJ estimates its caseload would increase to 26,088. This would require up to 247 additional probation officers. The annual general fund fiscal impact is estimated to be

\$37,011,984, which includes positions, training, travel costs, and supplies, including computers and cell phones.

Department of Corrections

Additionally, according to data obtained by DJJ from the Department of Corrections (DOC), DOC's average daily state-responsible population of 18-20 year olds was 260 in calendar year 2021. Under the proposed legislation, DJJ could be responsible for the custody of these individuals if the bill passes. DJJ's direct care costs per child are \$245,836, which includes re-entry and other programming, food, healthcare, and education costs. Assuming the same number of juveniles would be housed at DJJ, the agency estimates the annual general fund fiscal impact for direct care costs associated with this legislation to be \$63,917,360. While DOC would see a small reduction, it is expected that these beds would be occupied by state-responsible offenders currently housed at local jails. Therefore, the fiscal impact on DOC is minimal.

Bon Air Juvenile Correctional Center

The proposed legislation is expected to increase the number of juveniles committed to DJJ. Currently, DJJ operates only one Juvenile Correctional Center (JCC) in Bon Air, which has a 284-bed capacity. In calendar year 2021, the average daily population at the Bon Air JCC was about 235 residents. DJJ estimates it will need funding for expansion and/or a new facility to accommodate the newly committed juveniles under this bill. At this time, the estimated cost of a new facility or expansion is not known. Should a new facility be required, annual operating funds would also be needed to support the facility's operations.

Department of Behavioral Health and Developmental Services

According to the Department of Behavioral Health and Developmental Services (DBHDS), this bill would have implications for DBHDS services, including the approach to evaluating and providing restoration services for underage persons found incompetent to stand trial. While very few incompetent juvenile defendants require hospitalization for competency restoration because many psychotic disorders have their onset in the late teens/early twenties, "underage persons" are more likely to require inpatient restoration. The juvenile code does not permit hospitalization solely for restoration, and so there would be no mechanism to provide appropriate treatment to support restoration for an incompetent underage person who does not meet commitment criteria. The unit currently has approximately 250 juvenile restoration cases each year. This bill is projected to increase the case count by 80-100 additional cases.

In order to serve the increased caseload, DBHDS would need additional staff to provide restoration services. DBHDS estimates needing two additional restoration counselor positions. The cost per position is \$105,969 annually, which includes salary, fringe, supply, and vehicle costs, for a total annual general fund cost for these positions of \$211,938.

Additionally, according to DBHDS, all incompetent juveniles under 18 are provided outpatient restoration or restoration services where they are located (e.g., a group home, residential facility, or detention center), and the bill would require a similar process for underage persons. In cases where juveniles are located in parts of Virginia that do not have direct service staff available, contractors are used. Several factors make up the cost of a juvenile restoration case, including:

Service	Unit of Service***	Unit Cost
ACE: Admission evaluation of competence to stand trial (Including interview, report writing and revisions)	Each evaluation	\$400.00
CRSP: Competency restoration services plan (Including revisions)	Each CRSP	\$100.00
Competency restoration services	Per Hour, billed by the exact # minutes	\$70.00
Case management services	Per Hour, billed by the exact # minutes	\$70.00
Clinical supervision of juvenile competency restoration services	Per Hour, billed by the exact # minutes	\$70.00
Case management services – travel	Per Hour, billed by the exact # minutes	\$35.00
Mileage reimbursement	Per mile	State rate (.56)
Post Restoration Evaluation of Competency to Stand Trial (PRECAST)	Each evaluation	\$342.00

DBHDS estimates additional contractual services costs of \$100,000 annually, which includes \$40,000 for evaluations and \$60,000 for services provided in the community through Community Services Board (CSB) contracts. According to DBHDS, the 18–21-year olds would only require outpatient evaluation services. There are no inpatient evaluations for juveniles as these are conducted on an outpatient basis only and therefore have no impact on bed days.

Given all of this, the total estimated general fund cost to DBHDS as a result of this proposed legislation is \$311,938 annually.

Courts

According to the Courts, the proposed legislation would result in a caseload increase in Juvenile and Domestic Relations (JDR) courts by 62,500 cases per year, which is the approximate number of cases against “underage persons” as defined in the bill that are currently heard in circuit and general district courts (GDC). According to the Courts, both JDR courts and GDC are understaffed on a statewide level, so the impact of this bill cannot be addressed by moving staff from one court type to another. The addition of 62,500 cases in JDR court annually would require approximately 85 additional JDR deputy clerk positions, which each cost \$66,134. The total annual general fund cost for the 85 positions is \$5,621,377. Additionally, this increased caseload will also require an increase in the number of JDR judges needed. Determination of the size of any necessary increase cannot be determined until the next Judicial Workload Study is conducted, so any associated fiscal impact is indeterminate at this time.

Additionally, the proposed legislation would require the Courts to make programming changes to the juvenile court Case Management System (JCMS) to allow for a distinction between juvenile delinquency cases and offenses by underage persons. The Courts will also need to make programming changes to various interfaces it maintains with Executive Branch agencies. The Courts estimate a one-time cost of \$1,891,148 to perform these modifications.

Virginia Criminal Sentencing Commission

According to data from the Virginia Criminal Sentencing Commission's Sentencing Guidelines Data System for FY 2016 through FY 2021, there were 11,668 felony sentencing events involving offenders who were age 18-20 at the time of the offense. Of those, 36 percent were sentenced to probation, 31.8 percent were sentenced to jail with a median sentence of four months, and 32.2 percent were sentenced to prison with a median sentence of 2.5 years. If the proposed legislation passes, defendants aged 18-20 could be transferred to circuit court for trial, and ultimately sentenced to DOC, or their cases could remain in JDR court and they could be committed to the custody of DJJ. It is unknown at this time how many underage persons would be sentenced to DOC. Therefore, any estimate of the potential net reduction of state-responsible (prison) beds as a result of this proposed legislation is indeterminate at this time.

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

- 9. Specific Agency or Political Subdivisions Affected:** Department of Juvenile Justice, Department of Behavioral Health and Developmental Services, Department of Corrections, Courts, Local and regional jails.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** The system enhancements required for the Courts to comply with this proposed legislation cannot be completed before July 1, 2022, because the Office of the Executive Secretary (OES) of the Supreme Court will need to hire additional personnel to perform the enhancements. OES estimates the earliest date by which these modifications can be completed is January 1, 2024.