

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB413

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

2. Patron: Morrissey

3. Committee: Judiciary

4. Title: Persons charged with first offense drug possession; probation.

5. Summary: Under current law, a court has discretion to defer proceedings and place a defendant on probation if such defendant is charged with a first possession of a controlled substance. This bill requires a court to defer proceedings and place such a defendant on probation.

6. Budget Amendment Necessary: Indeterminate

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

8. Fiscal Implications: According to an analysis of FY 2020 – FY 2021 data provided by the Virginia Criminal Sentencing Commission, there were 8,927 convictions of a first possession of a Schedule I or II drug under § 18.2-250 (A,a). Of these, 66.4 percent (n= 5,930) were sentenced to probation, 30 percent (n= 2,677) were sentenced to jail with a median sentence of 3.0 months, and 3.6 percent (n= 320) were sentenced to prison with a median sentence of 1.5 years. At this time, it is not known how many of these offenders were transferred to the Department of Corrections or served their time in local jails.

The cost of a bed in a DOC facility (prison) in FY 2021 was \$36,305 as calculated by the Department of Planning and Budget. Potential savings associated with this bill depends on the number of future offenders who would be sentenced to probation instead of being sentenced to jail or prison. The Commonwealth pays localities \$12.00 a day for any state-responsible prisoner held in a local jail. However, any savings would be offset by the cost to manage probation cases. According to DOC's FY 2021 Management Information Summary Annual Report, DOC spent an average of \$1,414 on each probation and parole case.

The fiscal impact on local probation services is unknown at this time.

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.

This bill is not expected to have a material impact on courts.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Courts

10. Technical Amendment Necessary: No

11. Other Comments: None