

Department of Planning and Budget 2001 Fiscal Impact Statement

1. Bill Number HB 2675

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

2. Patron Rhodes

3. Committee Courts of Justice

4. Title Mandatory parole

5. Summary/Purpose:

State criminal statutes establish a range of years of incarceration to which an offender may be sentenced for specific offenses. Generally, these ranges are wide, providing judges considerable discretion in setting sentences and allowing them to take into account the circumstances of each case.

There is also in place a set of guidelines, promulgated by the Virginia Criminal Sentencing Commission, to assist judges in deciding on what sentence to impose in a case. These guidelines, generally based on actual time served by persons previously convicted of the offense under consideration, provide a smaller range within the sentencing range established by statute. For example, the statutory penalty for a Class 3 felony can be a prison sentence ranging from five to twenty year, but the sentencing guideline for a particular Class 3 felony may be a range of five to eight years. Although compliance with the guidelines is voluntary on the part of judges, the compliance rate is about 80 percent.

Persons sentenced for crimes committed before January 1, 1995 are eligible to be released on parole prior to the completion of their sentence. Persons sentenced for crimes committed on or after that date are not eligible for parole; they must serve at least 85 percent of their sentence. Because the guidelines are based, for the most part, on actual time served in the past for each offense, they reflect the effect of the parole system prior to 1995.

One practical effect of this system is that there could be persons in prison for crimes committed before 1995 who will serve longer prison sentences than persons with comparable histories who committed the same crime after January 1, 1995. This situation could occur because those pre-1995 offenders were given sentences in the high end of the statutory range, beyond the maximum recommended by the sentencing guideline. They could have received such a sentence because the guidelines were not in place when their sentencing occurred or because the judges in their cases chose to exceed the guidelines. Also contributing to the possible longer stay of a pre-1995 offender would be his parole status. If his sentence were long enough, he might not yet be eligible for parole consideration. Finally, although eligible for parole, the Parole Board may have denied him parole.

The proposed legislation would address this situation by requiring the release on parole of anyone in prison for an offense committed prior to January 1, 1995 who had served the maximum sentence

for his offense, plus ten percent, as calculated under the sentencing guidelines in effect on July 1, 2001.

6. **Fiscal Impact:** See Item No. 8.
7. **Budget amendment necessary:** None.
8. **Fiscal implications:**

According to the Department of Corrections (DOC), the proposed legislation would result in the release of 3,286 inmates on July 1, 2001. An additional 565 inmates would be released by July 1, 2002 and 537 by July 1, 2003. Some of these offenders likely would be released on parole regardless of whether this legislation is enacted. On the other hand, DOC cautions that its estimates are conservative. Therefore, the estimates used in this report are based on the estimates provided by DOC.

A sudden decrease in the prison population of over 3,800 inmates would have significant fiscal ramifications. However, the extent of the impact would depend on what action or combination of actions the state took in response to such a decrease. The following actions could result in savings. These actions are not mutually exclusive; thus, they should not be added together:

- ?? Direct inmate costs—There are certain costs directly associated with an individual inmate. The primary ones are food, clothing, and medical care. According to DOC, the annual direct inmate cost for FY 2000 was approximately \$3,700. Applying this to the projected decrease in the number of inmates resulting from the proposed legislation, DOC would realize a savings in FY 2002 of approximately \$13.2 million in direct inmate costs.
- ?? Close prisons—With a 3,800-decrease in the number of inmates, DOC would not need all the prison bed space it now has. As a consequence, the department could close at least three prisons. Depending on the prisons selected, the savings in annual operating costs would be approximately \$16-20 million per prison.
- ?? Ease crowding—Some of the state's prisons now house more inmates than they had originally been intended to house. In fact, DOC's long-range master plan proposes reducing crowding in some facilities by approximately 1,600 inmates. Several years ago, DOC received additional positions and funding to handle the additional inmates. If the crowding could be eased as a result of the reduction in inmates resulting from the proposed legislation, DOC would no longer need these positions or related funding. (There is not sufficient information available to estimate this possible saving.)
- ?? Increase out-of-state inmates—Currently, DOC is under contract to house approximately 3,900 inmates from other states and the District of Columbia. It charges about \$60 per day to house these inmates. With additional beds available as a result of the proposed legislation, the department could increase its number of out of state inmates and the revenue it collects. It is not known how many additional inmates DOC could realistically expect to get under contract, but it is doubtful that there is a "demand" among other states for as many as 3,800 more beds.

?? Reduce local out of compliance—For each state-responsible inmate in a local jail for more than sixty days, the state pays the locality \$14 per day. Currently, there are about 1,000 out-of-compliance state inmates in local jails. If the proposed legislation were enacted, the state could eliminate the number of state-responsible inmates in jails. Assuming an average daily population of 1,000 state inmates in local jails, this would be an annual savings of \$5.1 million.

These potential savings would be partially offset by increased DOC administrative costs:

?? Sixty-three additional probation and parole officers to supervise the more than 3,800 additional offenders released on parole. The projected annual cost of these additional positions is approximately \$2.5 million.

?? Ten additional positions in the classification unit to calculate the revised release dates (existing computer systems could not handle the calculations). The projected annual cost of these positions is \$350,000.

9. **Specific agency or political subdivisions affected:** Department of Corrections

10. **Technical amendment necessary:** None.

11. **Other comments:** None.

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cc: Secretary of Public Safety

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