

**Author Agency Name**  
**2004 Fiscal Impact Statement**

**1. Bill Number** HB 1012

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

**2. Patron** Rust

**3. Committee** Passed Both Houses

**4. Title** Gang crimes; presumption of bail

**5. Summary/Purpose:**

Under the provisions of current law, persons with two prior felony convictions and charged with a felony offense and persons charged with violent crimes, certain drug sale crimes, and certain weapons crimes are presumptively denied bail (the presumption is subject to rebuttal). The proposed legislation would expand the presumption to persons charged with gang participation and gang recruitment.

Current law requires that a presentence report be prepared for persons convicted of certain violent felonies. The proposed legislation would add gang-related offenses to those offenses for which a presentence report must be prepared and would require any presentence report include information concerning an offender's participation and membership in a criminal street gang.

**6. Fiscal Impact** Estimates are: Final.

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2004-05	2,920	0	General
2005-06	2,920	0	General
2006-07	2,920	0	General
2007-08	5,840	0	General
2008-09	5,840	0	General
2009-10	5,840	0	General

**7. Budget amendment necessary:** No.

**8. Fiscal implications:**

The Virginia Criminal Sentencing Commission has projected that the proposed legislation will result in a slight increase in the number of persons confined in local and regional jails waiting trial. The Commonwealth reimburses localities \$8.00 per day for each person confined in local and regional jails while waiting trial. The expenditure impacts noted

in Item 6 are based on this reimbursement rate and the Sentencing Commission's projection of additional persons in jail as a result of the legislation.

It should be noted that the criminal street gang statutes, violation of which would be cause for presumptive denial of bail, are relatively new and there have not been many persons charged with violations of those provisions. As prosecutors and law-enforcement staff become more familiar with the statutes, more persons may be charged under them. Therefore, it may turn out that the projected impact described in this analysis is understated.

In preparing presentence reports now, probation officers of the Department of Corrections often include information concerning the gang affiliation of an offender. The provisions of the proposed legislation should not increase the workload of the department for this activity.

**9. Specific agency or political subdivisions affected:**

Department of Corrections  
Compensation Board  
Magistrates  
Local and regional jails

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

**11. Other comments:** Identical to SB 492, which has passed both houses, but has not been enrolled.

**Date:** 03/09/04 / rwh

**Document:** G:\LEGIS\Fis-04\Hb1012er.Doc Dick Hall-Sizemore

cc: Secretary of Finance  
Secretary of Administration  
Secretary of Public Safety