

Department of Planning and Budget 2004 Fiscal Impact Statement

1. Bill Number **HB 1132**

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

2. Patron McDonnell

3. Committee House Courts of Justice

4. Title DUI; presumptive denial of bail

5. Summary/Purpose:

Under the current provisions of law, persons charged with violent crimes, certain drug sale crimes, and certain weapons crimes, as well as persons charged with a felony offense and who have two prior felony convictions, are presumptively denied bail. The presumption is subject to rebuttal.

The proposed legislation would expand the presumptive denial of bail to include persons charged with specified DUI offenses who (i) had two or more convictions of any combination of the offenses within the previous 10 years; or (ii) had been convicted one time during the previous 10 years, is awaiting trial for a second such offense and has been arrested for a third such offense.

6. Fiscal Impact Estimates are: Preliminary. See Item 8.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2004-05	1,398,680	General
2005-06	1,752,000	General
2006-07	1,857,120	General
2007-08	1,935,960	General
2008-09	1,962,240	General
2009-10	1,988,520	General

7. Budget amendment necessary: Yes. Item 67.

8. Fiscal implications:

The Virginia Criminal Sentencing Commission analyzes proposed legislation to determine the potential impact on state prison and local jail bed space. The Commission has not yet released an analysis of the potential impact of this proposed legislation, but it has analyzed another proposed bill that has provisions very similar to this one. One of the provisions of proposed HB 889 would require presumptive denial of bail for anyone charged with DUI who had two previous DUI convictions. HB 1132, the one under consideration

here, would require that previous convictions be within a ten-year period in order for bail to be presumptively denied, but it would cover more offenses.

The Sentencing Commission projects that expanding the presumptive denial of bail provisions to include persons charged with a third or subsequent offense of DUI will result in an increase in the number of persons held in local and regional jails awaiting trial on DUI charges. For each person held in jail awaiting trial, the Commonwealth reimburses the localities \$8.00 per day. The fiscal impacts noted in Item 6 are the additional per diem payments the Commonwealth would be obligated to pay localities, based on the Sentencing Commission's projected increase in jail beds resulting from HB 899. Because HB 1132 would apply only to persons with two convictions within the previous 10 years, the impact may be less than shown here. Although additional information is needed to make a projection for the more limited provisions, because HB 1132 applies to more offenses than HB 889 and because most third DUI offenses are likely to be within a 10-year period, it is not thought that the impact will be significantly less.

There would be another significant fiscal effect of this legislation, although it cannot be precisely quantified. In addition to persons waiting trial, local and regional jails house offenders convicted of misdemeanors and felonies. The state Department of Corrections is supposed to transfer anyone convicted of a felony, and sentenced to a year or more, to a state correctional facility within 60 days of receiving the court order establishing the sentence. Currently, there are approximately 2,500 "state-responsible" offenders housed in local or regional jails who have been there beyond the 60-day limit because there is insufficient bed space in prisons, and this backlog is projected to grow over the next few years unless offsetting actions are taken. In addition to the backlog of "state responsible" inmates in jails, the "local responsible" jail population is projected to increase. The proposed legislation could add an additional several hundred local responsible inmates to the jail populations each year. These increases in the jail population will increase the pressure to develop more state prison bed space to house state responsible inmates, as well as to expand local jails to house the additional local responsible inmates.

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: None.

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