

Department of Planning and Budget 2010 Fiscal Impact Statement

1. Bill Number: HB291ER

House of Origin ___ Introduced ___ Substitute ___ Engrossed

Second House ___ In Committee ___ Substitute X Enrolled

2. Patron: Griffith

3. Committee: Passed Both Houses

4. Title: **Appeal of bail decision by attorney for the Commonwealth**

5. Summary: Provides that if a judicial officer (including a magistrate) denies bail to a person, requires excessive bond or fixes unreasonable terms of a recognizance, the person may appeal the decision of the judicial officer. If the judicial officer grants bail to an accused that is deemed inadequate or unreasonable by the attorney for the Commonwealth, the attorney for the Commonwealth may appeal the decision of the judicial officer. Any bail decision made by a judge of a court may be appealed successively by the person or attorney for the Commonwealth to the next higher court, up to and including the Supreme Court of Virginia, where permitted by law.

6. Fiscal Impact Estimates: Final (see Item 8)

7. Budget Amendment Necessary: No

8. Fiscal Implications: Presently, there is no data available to indicate the frequency in which accused persons or Commonwealth's Attorneys' appeal bail decisions. In the professional judgment of the Commonwealth's Attorneys' Services Council (CASC), appeal decisions occur in less than 5 percent of cases. Typically, a Commonwealth Attorney will appeal only if the bail/bond amount is too low to encourage the accused to appear or if the particular facts of the defendant suggest bail inappropriate because of risk of non-appearance, risk of bad behavior, and/or danger to community.

Potentially, such an appeal could result in a higher bail being set for the offender. This may mean that fewer offenders will be able to make bail. Because offenders receive credit for time served in jail awaiting trial, an increase in pre-trial time served reduces the amount of time an offender who is given a prison or jail term will have to serve after sentencing.

9. Specific Agency or Political Subdivisions Affected: Courts, local jails and Commonwealth's Attorneys'

10. Technical Amendment Necessary: No

11. Other Comments: None

Date: 4/9/2010 dpb

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