

Department of Planning and Budget

2011 Fiscal Impact Statement

1. **Bill Number:** HB2513

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

2. **Patron:** Gilbert

3. **Committee:** House Courts of Justice

4. **Title:** Inherent authority to defer and dismiss a criminal case

5. **Summary:** Provides that no court shall have the authority, upon a plea of guilty or nolo contendere or after a plea of not guilty, when the facts found by the court would justify a finding of guilt, to defer proceedings or to defer entry of a final order of guilt or to dismiss the case upon completion of terms and conditions except as provided by statute. This is in response to the January 13, 2011, Supreme Court of Virginia decision in *Hernandez v. Commonwealth*, Va. (2011); record no. 092524.

6. **Budget Amendment Necessary:** No, as long as legislation passes

7. **Fiscal Impact Estimates:** Preliminary (see Item 8)

8. **Fiscal Implications:** According to the Department of Criminal Justice Services (DCJS), this legislation could have a significant fiscal impact on local community corrections programs if not passed. These programs get a substantial portion of their funding through grants provided by DCJS.

The recent Virginia Supreme Court ruling in *Hernandez v. Commonwealth of Va.* broadens the number of categories that judges may allow for deferment of a sentence from 24 to 700. Consequently, with more deferment categories it is reasonable to conclude a larger number of persons could receive a deferred sentence that would require local supervision. Prior to the Supreme Court ruling, almost 50 percent of persons receiving a misdemeanor conviction received a deferred judgment.

In FY 2010, there were roughly 39,000 offenders participating in local community corrections program; the average daily cost for local community corrections was approximately \$4.50 per offender. The average time on probation was about 6.5 months or 195 days. So for each offender added to local community corrections programs supervision, the cost would be approximately \$877.50

DCJS estimates an increase of about 11,713 (or 30% of FY 2010 totals) offenders under local community corrections supervision if this bill does not pass, with the full implications felt by FY 2013. Using DCJS estimates, the cost to local community corrections programs could be \$10M or more.

9. **Specific Agency or Political Subdivisions Affected:** Local Community Corrections Programs

10. **Technical Amendment Necessary:** No

11. **Other Comments:** None

Date: January 31, 2011

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