

Department of Planning and Budget 2012 Fiscal Impact Statement

1. Bill Number: SB 111

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Howell

3. Committee: House Appropriations

4. Title: Immediate sanction program

5. Summary:

Current language authorizes the establishment of up to two immediate sanction probation programs in the Commonwealth to be used by judges as a new alternative sentencing option. The authorization for the programs is set to expire July 1, 2012.

The proposed language removes the sunset provision, extensively revises the parameters and provisions of the program, and directs the Virginia Criminal Sentencing Commission to select five jurisdictions as pilot sites and to administer the pilot testing of the program in those sites. As set out in the bill the immediate sanction program would function as follows.

The program would be available for nonviolent felony offenders who violate the conditions of their probation supervision. If such an offender on probation has been referred to court for a hearing on the revocation of his or her probation due to violation of one or more conditions of his probation, other than absconding for more than seven days, the court, after again suspending all or part of the sentence, may place the offender in the immediate sanction probation program as a condition of probation.

Offenders participating in the immediate sanction probation program would be subject to immediate and certain sanctions for violations of the conditions of probation supervision. If a probation and parole officer has reasonable cause to believe that an offender has violated any provision of supervision, the officer must immediately have the offender arrested. The offender must be brought before the court within 48 hours of being taken into custody. Unless the offender, the attorney for the Commonwealth, or the court objects, the court shall conduct an expedited hearing. If the court finds good cause to believe that the conditions of probation have been violated, it must impose a sentence based on the following schedule:

- a. For the first violation, 3 to 10 days in jail;
- b. For the second violation, 10 to 20 days in jail;
- c. For the third violation, 20 to 30 days in jail; and
- d. For the fourth violation, 30 days to 90 days in jail.

The court may not suspend any sentence in whole or in part and no sentence may be reduced by credits earned by being in jail awaiting the hearing. Furthermore, the sentence may not be

served on work release or home electronic monitoring. The court may remove the offender from the immediate sanction probation program at any time.

After completing a sentence for a fourth violation of the conditions of supervision under the immediate sanction probation program, the court may have the offender assessed for addiction to, or dependence on, controlled substances. If the assessment indicates that the offender is addicted to controlled substances, the court shall provide the offender the option to enter a drug treatment court program or another substance abuse treatment program. Otherwise, the offender is placed back under regular probation supervision. Any subsequent violation of a condition of probation would make the offender subject to having his or her probation revoked and the remainder of the sentence imposed.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary. See Item 8.

8. Fiscal Implications:

Although the legislation directs that offenders placed in the immediate sanction program be “frequently reviewed by the probation and parole district office”, it is expected that the Department of Corrections can implement the provisions of the legislation within existing resources. There will be no more than five jurisdictions selected for testing the program and choosing to place an eligible offender being considered for revocation of probation in the program would be optional with the court.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Virginia Criminal Sentencing Commission
Circuit courts

10. Technical Amendment Necessary: None.

11. Other Comments: Identical to HB 1299.

Date: 2/29/2012

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