

Department of Planning and Budget 2014 Fiscal Impact Statement

1. Bill Number: SB 142

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

2. Patron: Marsden

3. Committee: House Courts of Justice

4. Title: Sentence modification for offenses committed by juveniles

5. Summary:

The proposed legislation would provide a mechanism for the modification of the sentences for some offenders convicted of nonhomicide offenses committed on or after January 1, 1995 and when the offenders were juveniles. If the sentence imposed were a life sentence or consecutive active terms of confinement that would not be completed until after the offender's 60th birthday, the offender would be able to petition the Virginia Supreme Court for a modification of the sentence after his 35th birthday or after serving 20 years of the sentence, whichever occurred later.

Upon receipt of such a petition, the Supreme Court would appoint a panel of four circuit court judges from four different judicial circuits to conduct a hearing on the petition. The panel would appoint counsel to represent the inmate. After providing the attorney for the Commonwealth in the jurisdiction in which the petitioner was convicted, any victims, and the offender opportunity to respond to the petition and present evidence, and after considering whether a modification of the sentence were warranted, the panel would have the authority to leave the sentence in place, reduce it to time served, or suspend it. The panel would not have the authority to increase the sentence. The panel would have the authority to place the offender on probation and set the terms of the probation. Any order to modify the sentence would require three affirmative votes of the panel.

After becoming eligible to file a petition for sentence modification, an offender would be limited to filing such petition no more than once every five years.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Minimal. See Item 8 below.

8. Fiscal Implications:

The proposed legislation could result in freeing up beds in facilities operated by the Department of Corrections. However, the fiscal effect would be minimal because the number of offenders who would be eligible to file a petition for sentence modification in any

one year is small and it is not possible to make a credible projection of how many inmates the special court would release. Furthermore, there is a backlog of state-responsible inmates being held in jail and any available prison bed would be filled from that back-log. Any potential savings for the state would accrue in the form of a reduction in the amount of per diem payments the Compensation Board would need to make to local and regional jails for housing state-responsible inmates. Currently, the payment rate for state-responsible inmates is \$12 per day. These savings would be partially offset by the cost of counsel appointed to represent the inmates petitioning for a sentence modification. The Office of the Executive Secretary of the Supreme Court estimates that it would cost \$720 per inmate for such representation.

Currently, there are 58 inmates in the custody of the Department of Corrections who (i) were convicted of nonhomicide offenses committed on or after January 1, 1995; (ii) were juveniles at the time they committed the offenses; and (iii) have life sentences (15) or one or more sentences that would result in their being incarcerated until after they were 60 years old (43). These inmates would be eligible for sentence modification if the bill were enacted. However, no inmate would be eligible until FY 2017, when two would become eligible. For ten years after that, no more than five inmates in any one year would become eligible.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Supreme Court

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 2/12/2014

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