

Department of Planning and Budget 2015 Fiscal Impact Statement

1. Bill Number: SB1053

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

2. Patron: McDougale

3. Committee: Senate Finance

4. Title: Civil commitment proceedings; fees and compensation.

5. Summary: Increases from \$25 to \$75 the fee paid to court-appointed counsel representing a person in a civil commitment proceeding under Title 19.2. The bill also provides that court-appointed counsel representing a person acquitted of a felony by reason of insanity in a hearing to assess the need for inpatient hospitalization shall be paid a fee not to exceed \$445. This bill is a recommendation of the Judicial Council of Virginia.

6. Budget Amendment Necessary: Yes, Items 39 and 40

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

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2016	\$40,530	General Fund
2017	\$40,530	General Fund
2018	\$40,530	General Fund
2018	\$40,530	General Fund
2020	\$40,530	General Fund
2021	\$40,530	General Fund

8. Fiscal Implications: This bill would increase expenditures in the Involuntary Mental Commitment (IMC) Fund and the Criminal Fund.

IMC expenditures would increase as a result of fees paid to court appointed counsel increasing from \$25 to \$75 per hearing to represent a person (incarcerated in a local jail or on conditional release) whose commitment is sought. Additionally, Criminal Fund expenditures would increase to cover the cost of counsel fees which would increase from \$25 to an amount not to exceed \$445 for hearings to assess the need for inpatient hospitalization pursuant to §19.2-182.5 of a person who was found guilty of a felony by reason of insanity.

This bill seeks to increase fees for services for court appointed counsel appointed to represent respondents in commitment proceedings that fall into two overarching categories within Title 19.2.

The first category of hearings is presided over by a district judge or special justice, to hospitalize an inmate of a local correctional facility for psychiatric treatment pursuant to § 19.2-169.6, or to hospitalize an acquittee on conditional release pursuant to § 19.2-182.9. This bill seeks to increase the court appointed counsel fee for representing a respondent in these proceedings from \$25 to \$75, consistent with the fee amount for court appointed counsel representing individuals who are not inmates or acquittees in similar commitment hearings. In FY13, approximately \$11,025 was paid from the IMC fund to court appointed counsel for services rendered representing inmates and acquittees in 441 such commitment and recommitment hearings (\$25 X 441). If the hearing rate remains at FY13 levels, the estimated amount paid to court appointed counsel for their services in these type of hearings would be \$33,075, which equates a fiscal impact to the IMC fund of \$22,050 (\$33,075 - \$11,025).

The second category of hearings is held in a circuit court pursuant to §19.2-182.5 to review the commitment of a person acquitted of a felony by reason of insanity (“Felony NGRI”). A hearing to assess the need for inpatient hospitalization of each acquittee who is acquitted of a felony by reason of insanity is held by the committing circuit court at yearly intervals for 5 years and at biennial intervals thereafter. These proceedings can be lengthy (2-3 hours) and complex involving expert witnesses. This bill would amend §19.2-182 by increasing the fee for court appointed counsel in these cases from \$25 to a sum not to exceed \$445. This sum is equivalent to the current lower-tier felony rate established for court appointed counsel in criminal cases pursuant to §19.2-163. In FY13, court appointed attorneys were paid \$25 for their services as counsel to the respondent in 44 Felony NGRI hearings, for a total of \$1,100 (\$25 x 44). If the hearing rate remains at FY13 levels, the estimated amount paid to court appointed counsel for these hearings would increase to a maximum of \$19,580 (\$445 x 44) per year, which equates a fiscal impact to the Criminal Fund of \$18,480.

The annual total fiscal impact for this proposal is estimated to be \$40,530 (\$22,050 IMC + \$18,480 Criminal Fund)

The bill contains a clause that the provisions of this act shall not become effective unless an appropriation effectuating the purposes of this act is included in a general appropriation act passed in 2015 by the General Assembly that becomes law.

9. Specific Agency or Political Subdivisions Affected: Courts

10. Technical Amendment Necessary: No

11. Other Comments: Similar to HB1779