

Department of Planning and Budget

2017 Fiscal Impact Statement

1. Bill Number: SB1227S1

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

2. Patron: Barker

3. Committee: Senate Committee for Courts of Justice

4. Title: Drug Treatment Court Act; eligibility.

5. Summary: The amended bill provides that adult offenders who have been convicted of a violent felony offense under §18.2-92, which is punishable as Class 6 felony, within the preceding 10 years, are eligible for participation in any drug treatment court established in the Commonwealth.

6. Budget Amendment Necessary: No

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

8. Fiscal Implications: Currently, under Virginia law, adult offenders who have been convicted of a violent criminal offense under §§ 17.1-805 or 19.2-297.1 within the preceding 10 years, or juvenile offenders who previously have been adjudicated not innocent of any such offense within the preceding 10 years, are not be eligible for participation in any drug treatment court programs.

The proposed legislation would allow an individual convicted of violent felony offense under § 18.2-92 within the preceding 10 years, that is punishable as a Class 6 felony, to be eligible to participate in a drug treatment court. Section 18.2-92 provides that if any person break and enter a dwelling house while said dwelling is occupied, either in the day or nighttime, with the intent to commit any misdemeanor except assault and battery or trespass, he shall be guilty of a Class 6 felony. However, if the person was armed with a deadly weapon at the time of such entry, he shall be guilty of a Class 2 felony. For a Class 6 felony, a judge can impose a term of imprisonment of not less than one year nor more than five years, or up 12 months in jail and a fine of \$2,500. A Class 2 felony is punishable by imprisonment for 20 years to life and a fine of up to \$100,000.

Drug treatment courts in Virginia are supported by either direct federal funding, state funding, local appropriations, private funding or a combination of these funding sources. Since 2012, drug treatment courts in the Commonwealth have received \$4.7 million in federal grants to support nonviolent, criminally involved persons with substance-use disorders. According to the Office of the Executive Secretary (OES), under current federal law, “violent offenders” are not permitted to participate in drug treatment courts and the Attorney General of the United States is obligated to suspend the federal grant immediately to any court which permits such participation (42 U.S.C. § 3797u-1).

As a compliance requirement of the grant, each grant recipient has to certify each year that the grant funds are used only for eligible drug treatment court program participants. Therefore, it is unknown if federal funding received by drug courts in Virginia would be impacted as a result of the proposed legislation.

The proposed legislation would create a slight increase in the number of offenders that could be eligible for drug treatment court programs. According to data from the Virginia Criminal Sentencing Commission (VCSC), there were 25 offenders sentenced in FY 2016 who would be eligible for drug treatment court under the proposed legislation who are not eligible under current law. Because it is unknown how many offenders under this proposed legislation would be referred to drug courts, it is unknown whether all drug court programs have the capacity to absorb additional program participants.

All drug treatment courts in the Commonwealth contract with local Community Service Boards (CSB's) for drug treatment and counseling services. The potential impact of this bill on local CSB resources is unknown. The addition of this offender population to the Department of Corrections (DOC) supervision caseload is not expected to have a notable fiscal impact.

9. Specific Agency or Political Subdivisions Affected: Courts, Commonwealth's Attorney's, Department of Corrections, CSBs.

10. Technical Amendment Necessary: No

11. Other Comments: No.