

Department of Planning and Budget

2020 Fiscal Impact Statement

1. Bill Number: SB133 H1

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

2. Patron: Stuart

3. Committee: Courts of Justice

4. Title: Deferred disposition in criminal cases.

- 5. Summary:** The substitute bill allows a court to defer and dismiss a criminal case, except an act of capital murder, an act of violence or any crime for which a deferred disposition is provided for by statute, where the defendant has been diagnosed with autism or an intellectual disability by a psychiatrist or clinical psychologist and the court finds by clear and convincing evidence that the criminal conduct was caused by or had a direct and substantial relationship to the person's disorder or disability. The bill allows the court, without entering a judgment of guilt and with the consent of the accused, after giving due consideration to the position of the attorney for the Commonwealth and the views of the victim, defer further proceedings and place the accused on probation subject to terms and conditions set by the court. If the accused violates the terms and conditions of probation, the bill allows the court to enter an adjudication of guilt. When the accused fulfils the terms and conditions of probation, the court may discharge the person and dismiss the proceedings against him without an adjudication of guilt. The authority of any juvenile and domestic relations court granted to it are not affected by the provisions of this bill.

Under the proposed bill, deferred disposition would be available to the defendant even though he has previously been convicted of a criminal offense, been adjudicated delinquent as a juvenile, or had proceedings deferred and dismissed under this section or under any other provision of law, unless, after having considered the position of the attorney for the Commonwealth, the views of the victims, and any evidence offered by the defendant, the court finds that deferred disposition is inconsistent with the interests of justice.

The bill also expands the provisions related to fixed fee for misdemeanors (§16.1-69.48:1), fixed fee for felony reduced to misdemeanor (§17.1-275.2), and fixed misdemeanor fee (§17.1-275.7).

6. Budget Amendment Necessary: No

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

- 8. Fiscal Implications:** The bill allows a court to defer and dismiss a criminal case where the defendant has been diagnosed with autism or an intellectual disability by a psychiatrist or clinical psychologist and the court finds by clear and convincing evidence that the criminal

conduct was caused by or had a direct and substantial relationship to the person's disorder or disability. In these case, the court would have the authority to place the accused on probation subject to terms and conditions set by the court. Because the number of defendants who may be affected by this provision is not known, the impact on state or local probation offices cannot be determined at this time.

Under current law, certain fees are assessed for deferral of proceedings and when proceedings are deferred and the defendant is placed on probation. This bill adds deferred dispositions when the defendant has been diagnosed with autism or intellectual disabilities. Although revenue collected for such fees may increase as a result of this bill, the amount of revenue generated cannot be determined at this time.

This bill requires district court judges to certify circuit court costs of proceedings and requires circuit court clerks to compile a statement of expenses incident to the prosecution including those certified by district court judges. These provisions are not expected to have a material fiscal impact on courts. The impact on Commonwealth's Attorneys cannot be determined at this time.

9. Specific Agency or Political Subdivisions Affected: Courts, Commonwealth Attorneys, local and state probation programs

10. Technical Amendment Necessary: None

11. Other Comments: None