

Department of Planning and Budget 2021 Fiscal Impact Statement

1. Bill Number: HB1895

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

2. Patron: Hudson

3. Committee: Courts of Justice

4. Title: Fines and costs; accrual of interest; deferral or installment payment agreements.

5. Summary: Current law provides that no interest shall accrue on any fine or costs imposed in a criminal case or in a case involving a traffic infraction for a period of 40 days from the date of the final judgment imposing such fine or costs or during any period the defendant is incarcerated. This bill increases the interest-free period from 40 days to 180 days and provides that for a period of 180 days following the date of the defendant's release from incarceration if the sentence includes an active term of incarceration. The bill defines "incarcerated" or "incarceration" as confinement in a local or regional correctional facility, juvenile correctional facility, state correctional facility, residential detention center, or facility operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.).

Current law provides that a defendant may be required to pay in deferred payments or installments if he is unable to pay a fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing. This bill requires that the court assessing the fine, restitution, forfeiture, or penalty and costs must authorize the clerk to establish and approve individual deferred or installment payment agreements. The bill establishes that no fee can be assessed in connection with a defendant's participation in a deferred or installment payment agreement, unless the defendant is unable to make payments within 90 days of sentencing, then a one-time \$10 fee may be charged.

Current law allows a court to require a down payment as a condition of a defendant entering a deferred, modified deferred, or installment payment agreement and sets parameters for down payments and installment payment agreements. This bill prohibits any court from requiring a defendant to make a down payment upon entering a deferred, modified deferred, or installment payment agreement, other than a subsequent payment agreement. Nothing in this proposal prevents a defendant from voluntarily making a down payment upon entering any payment agreement.

In cases where a defendant has defaulted on a payment agreement, current law requires a court to consider a request to enter into a subsequent payment agreement. This bill allows that a defendant who has defaulted on a payment agreement may petition the court for a subsequent payment agreement. In such cases, a court is allowed to require a down payment to enter into a subsequent payment agreement, provided that the down payment required to enter into a subsequent payment agreement shall not exceed (i) if the fines and costs owed

are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. When a defendant enters into a subsequent payment agreement, a court shall not require a defendant to establish a payment history on the subsequent payment agreement before restoring the defendant's driver's license.

6. Budget Amendment Necessary: See Line 8.

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

8. Fiscal Implications: By extending the current interest-free period on unpaid fines and court costs from 40 days to 180 days, this bill is expected to reduce the amount of interest collected on unpaid fines and court costs. According to information provided by the courts, the additional interest-free months occur at the beginning of what becomes an unpaid account. The courts cannot identify the age of the accounts that yielded the collected interest so it is not possible to calculate the exact amount of interest that will be foregone as a result of the bill. However, it is estimated that this provision of the bill will have the effect of foregoing approximately one-third of a year's interest on each overdue account for new accounts after July 1, 2021. In FY 2019, a total of \$9,966,017 was collected in interest on unpaid fines and costs in the court system. Using this as a surrogate, approximately \$3.3 million less interest might be collected in the future. Interest on unpaid fines and/or costs are deposited into the Literary Fund.

The bill would require the moratorium on interest to be entered into the court's Financial Accounting System. According to the courts, most, if not all of defendants who receive sentences of incarceration will owe fines and/or court costs. The courts expect this provision to impact the courts' workload significantly, requiring additional FTE. However, the number of positions needed cannot be determined at this time.

According to the Department of Motor Vehicles, this bill is not expected to have a fiscal impact on agency operations.

9. Specific Agency or Political Subdivisions Affected: Courts

10. Technical Amendment Necessary: No

11. Other Comments: None