

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB326

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

2. Patron: Deeds

3. Committee: Committee on the Judiciary

4. Title: Sentencing proceeding by the jury after conviction; recommendation of leniency.

5. Summary: Under current law (§ 19.2-298.01), juries are prohibited from receiving the sentencing guidelines and have no authority or process by which to recommend alternatives to the jury's sentence. This bill provides that a jury may, in ascertaining the punishment for a person convicted of a felony or Class 1 misdemeanor, recommend that the sentence imposed be suspended in whole or in part, or that sentences imposed for multiple offenses be served concurrently, except where such suspension of sentence or concurrent service is prohibited by law. The bill prohibits the trial court from imposing an active term of incarceration in excess of the active term of incarceration recommended by the jury. The bill also allows the jury to recommend that the defendant be placed on probation, make full or partial restitution, perform community service, or receive mental health or substance abuse treatment in lieu of incarceration or as a condition of any suspended sentence. The bill requires the court to follow such recommendation unless good cause is shown for why the recommendation is inappropriate or unavailable.

6. Budget Amendment Necessary: No

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

8. Fiscal Implications: According to the Virginia Criminal Sentencing Commission (VCSC) there were a total of 25,822 felony sentencing events in FY 2019. Of these, 316 involved juries. Allowing juries to recommend suspended sentences or alternatives to incarceration may result in fewer offenders serving sentences in prison or local and regional jails, which would decrease costs associated with housing such offenders. However, there is not enough information to determine how many offenders would receive suspended or alternative sentences. Therefore, the impact of this bill cannot be assessed at this time.

According to the Department of Criminal Justice Services, this bill may result in an increase in placements to local probation, which would increase the need for adult community corrections resources. However, since the number of cases affected cannot be determined, the impact on community corrections cannot be quantified.

According to the Department of Behavioral Health and Developmental Services, this bill could potentially increase the number of people who receive mental health services through the Community Services Boards (CSBs), however there is no way to quantify how many people or what services would be necessary; therefore, the impact on CSBs cannot be determined at this time.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, local and regional jails, Department of Behavioral Health and Developmental Services

10. Technical Amendment Necessary: No

11. Other Comments: None