

DEPARTMENT OF PLANNING AND BUDGET

2004 Fiscal Impact Statement

1. Bill Number SB 442

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

2. Patron Rerras

3. Committee Passed both houses

4. Title Driving under the influence; presumptive denial of bail

5. Summary/Purpose:

Under the current provisions of law, persons charged with violent crimes, certain drug sale crimes, and certain weapons crimes, as well as persons charged with a felony offense and who have two prior felony convictions, are presumptively denied bail. The presumption is subject to rebuttal.

The proposed legislation would expand the presumptive denial of bail to include persons charged with specified DUI offenses who had three or more convictions of any combination of the offenses within the previous five years.

The bill also would expand the list of offenses for which arrests must be reported to the Central Criminal Records Exchange by local law-enforcement officials to include misdemeanor DUI offenses. Currently, arrests for those misdemeanors do not have to be reported.

6. Fiscal Impact Estimates are: Final. See Item 8.

7. Budget amendment necessary: None.

8. Fiscal implications:

According to an analysis by the Virginia Criminal Sentencing Commission, the proposed legislation will result in an increase in the number of persons housed in local and regional jails due to the denial of bail. The state reimburses localities \$8.00 per day for each such "local responsible" prisoner in jails. On the other hand, the legislation, according to the Commission's analysis, will also result in a freeing up of beds in prisons. This will occur because offenders are given credit toward their prison sentences for time spent in jail waiting trial. Therefore, although these DWI offenders will have spent more time in jail due to their denial of jail, those sentenced to prison will have corresponding less time to serve in prison. This freeing up of prison beds will enable the Department of Corrections to reduce the number of state responsible inmates who have been in jail for longer than 60 days (out of compliance inmates), for which the state reimburses jails \$14.00 per day. The savings in per

diem payments for out of compliance inmates will largely offset the increased per diem payments for those held in jail due to denial of bail.

Beyond the issue of per diem payments, the legislation would contribute to another, larger issue, which could have significant fiscal ramifications. In addition to persons awaiting trial, local and regional jails house offenders convicted of misdemeanors and felonies. The state Department of Corrections is supposed to transfer anyone convicted of a felony, and sentenced to a year or more, to a state correctional facility within 60 days of receiving the court order establishing the sentence. Currently, there are approximately 2,000 “state-responsible” offenders housed in local or regional jails who have been there beyond the 60-day limit because there is insufficient bed space in prisons, and this backlog is projected to grow over the next few years. In addition to the backlog of “state responsible” inmates in jails, the “local responsible” jail population is projected to increase. The proposed legislation is projected to add 115 local responsible inmates to the jail population in FY 2005 and an average of 143 such inmates in each year through FY 2010. Although, as noted above, there will be some offsetting bed savings in prisons which would enable DOC to transfer additional state responsible from the jails, there will be fewer prison beds freed up than there will be jail beds needed. The net result will be a need for an additional 63 jail beds, on average, annually from FY 2005 to FY 2010. These increases in the jail population, while not overwhelming in themselves, will add to the pressure to develop more state prison bed space to house state responsible inmates, as well as the pressure to expand local jails to house the additional local responsible inmates.

9. Specific agency or political subdivisions affected:

Compensation Board
Department of Corrections
Local and regional jails
Local magistrates

10. Technical amendment necessary: None.

11. Other comments: The provisions of this bill relating to presumptive denial are identical to provisions in HB 889 and HB 1132. In addition, there are several other bills that increase other aspects of the penalties for DUI. These include HB 667, HB 1107, HB 1147, SB 329, and SB 384. The cumulative effects of these bills should be considered, rather than each bill in isolation.

Date: 03/31/04 / rwh

Document: G:\LEGIS\Fis-04\SB442ER.DOC Dick Hall-Sizemore

cc: Secretary of Finance
Secretary of Public Safety