

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: HB760

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

2. Patron: Adams, L.R.

3. Committee: Courts of Justice

4. Title: Violation of the terms and conditions of a suspended sentence or probation; technical violations.

5. Summary: Current law defines technical violation of probation by listing specific infractions committed by a probationer. Current law prohibits the court from imposing an active term of incarceration for a first technical violation; limits, in cases where a defendant cannot be safely diverted through less restrictive means, to not more than 14 days of active incarceration for a second technical violation; and allows the court to impose whatever sentence might have been originally imposed for a third or subsequent technical violation.

This bill provides that use, possession or distribution of a Schedule I or II controlled substance would no longer be classified as a technical violation.

6. Budget Amendment Necessary: Yes. Item 404.

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

8. Fiscal Implications: If a court finds that a violation of the terms and conditions of a suspended sentence or probation is based on use, possession or distribution of a Schedule I or II controlled substance, the court may revoke the suspension and impose any or all of the period previously suspended. However, according to the Virginia Criminal Sentencing Commission (VCSC), current data are insufficient to estimate the number of individuals likely to be affected by the proposed changes. Although it is not feasible to estimate the impact this bill may have in the future, incarcerating probation violators could increase state-responsible (prison) bed space needs.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 552, 2021 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

The provisions of this bill may also increase the bed space needs in jails. According to the Virginia Criminal Sentencing Commission, not enough information is available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in

jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail. It also funds a portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020. The Commonwealth pays localities \$12.00 a day for any state-responsible prisoner held in a local jail.

This bill is not expected to have a material impact on the Department of Corrections' agency operations. The impact this bill may have on courts is not known at this time.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Local and Regional Jails, courts

10. Technical Amendment Necessary: No

11. Other Comments: None