

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: HB1435

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Ballard

3. Committee: Courts of Justice

4. Title: Revocation of suspension of sentence and probation

5. Summary: The proposed bill requires that if an alleged violation of the terms and conditions of a suspended sentence of probation is based on a criminal offense that was committed after the date of suspension, the hearing to revoke the suspension of sentence must be held as soon as practicable after the accused has been convicted of the criminal offense.

The bill also requires that if the court revokes the suspension and imposes any or all of the period previously suspended for a violation based on a new conviction, the court must order such sentence to run concurrently with any sentence imposed or the new criminal conviction.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Preliminary (see Item 8 below)

8. Fiscal Implications: According to data provided by the Virginia Criminal Sentencing Commission (VCSC), there were 5,970 probation revocations during FY 2022 that arose out of new law violations (these are violations of Condition 1 of the Department of Corrections' Conditions of Probation, which requires an offender to obey all federal, state, and local laws and ordinances). VCSC data includes only individuals who are on state probation; the data do not include individuals on local community-based probation.

Currently, the default in Virginia is that sentences run consecutively unless the judge specifies otherwise in the court order. The provisions of this bill require that if the court imposes any or all of a previously-suspended sentence based on a conviction of a new criminal offense, that sentence must run concurrently with any sentence imposed for the new criminal conviction. Based on available data, VCSC identified 93 cases (0.7 percent) of the 5,970 Condition 1 revocations where the judge imposed the sentence for the revocation concurrently with another sentence. However, VCSC reports that due to data limitations, this may be an undercount. Ultimately, the effect this proposal may have on jail and prison populations depends on the number and lengths of concurrent sentences that would have

been imposed as consecutive sentences. Given that data are uncertain, this effect cannot be estimated at this time.

According to the Office of the Executive Secretary of the Supreme Court (OES), the proposed bill is not expected to create a material fiscal impact on the resources of the court system.

9. Specific Agency or Political Subdivisions Affected: Courts, Department of Corrections, local and regional jails

10. Technical Amendment Necessary: No

11. Other Comments: None