

## **Department of Planning and Budget**

### **2023 Fiscal Impact Statement**

**1. Bill Number:** HB1603

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed

**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Wyatt

**3. Committee:** Courts of Justice

**4. Title:** Enhanced earned sentence credits; exemptions; firearm-related offense; felony conviction.

**5. Summary:** Currently, under §53.1-202.3 Subsection A, a maximum of 4.5 sentence credits may be earned for each 30 days served on a sentence for a conviction of certain felony offenses. However, for offenses other than those enumerated in subsection A, for which sentence credits may be earned, earned sentence credits are awarded and calculated using the following four-level classification system: Level I, 15 days credited for every 30 days served; (highest level); Level II, 7.5 days credited for every 30 days served; Level III, 3.5 days credited for every 30 days served; Level IV, zero sentence credits earned (lowest level). The earning of sentence credits is conditioned, in part, upon full participation in and cooperation with programs to which a person is assigned pursuant to § 53.1-32.1 (Classification system; program assignments; mandatory participation).

Additionally, pursuant to Item 404, R.2. of Chapter 2, 2022 Acts of Assembly, Special Session I, notwithstanding the provisions of § 53.1-202.3, Code of Virginia, a maximum of 4.5 sentence credits may be earned for each 30 days served on a sentence that is concurrent with or consecutive to a sentence for a conviction of an offense enumerated in subsection A of § 53.1-202.3, Code of Virginia.

Under the provisions of the proposed bill, anyone convicted of a felony offense involving a firearm would not be eligible to participate in the enhanced earned-sentence-credit system and could only earn the maximum of 4.5 sentence credits for each 30 days served.

This bill also conditions the earning of sentence credits upon not acquiring any felony conviction for an offense that occurred during confinement. The bill provides that a person's classification will be adjusted to Level IV and calculation of earned sentence credits reduced to zero upon a felony conviction for an offense that occurred during confinement.

**6. Budget Amendment Necessary:** Yes, Item 61 (Office of the Attorney General).

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

- 8. Fiscal Implications:** It is assumed that the bill would affect inmates incarcerated after July 1, 2023 (FY 2024). Although the number of inmates who would be impacted and the portions of their sentences they ultimately serve cannot be known, according to the Department of Corrections (DOC), as of December 31, 2022, there were 1,930 inmates with felony firearms convictions who were earning credits under the enhanced earned-sentence-credit system. DOC data shows that of these 1,930 inmates, 1,465 are earning sentence credits under Level I (highest earning level), 130 are earning sentence credits under Level II, 88 are earning sentence credits under Level III, and 247 are earning sentence credits under Level IV (lowest earning level). Under the provisions of this bill, inmates with felony firearms convictions would only be eligible to earn a maximum of 4.5 sentence credits for each 30 days served. Therefore, it is expected that anyone convicted of a felony firearm charge after July 1, 2023, would serve more of his sentence than he would have under the enhanced earned-sentence-credit system.

DOC reports that as of December 31, 2022, there were 637 state-responsible inmates with a conviction for a felony committed during their current incarceration in correctional facilities. DOC data shows that of these 637 inmates, 231 are earning sentence credits under Level I (highest earning level), 59 are earning sentence credits under Level II, 104 are earning sentence credits under Level III, and 243 are earning sentence credits under Level IV (lowest earning level). Under the provisions of this bill, anyone convicted of a felony after July 1, 2023, while he was incarcerated would not be able to earn sentence credits at all. Therefore, these inmates would serve more of their sentences than they would have under the enhanced earned-sentence-credit system.

According to DOC, this bill would require changes to the Virginia Corrections Information System (VACORIS), which DOC uses to track offender data including sentence credits earned and inmate release dates. DOC estimates the one-time cost of making the required modifications at \$275,000. It is expected that DOC could absorb the cost of these modifications. DOC estimates that the modifications would take at least one year before they could be fully implemented.

According to the Office of Attorney General (OAG), this bill is expected to increase the number of lawsuits filed by inmates who choose to dispute their sentence classifications. As a result, the OAG estimates that the workload created by this bill may require the addition of two Attorney II positions at a cost of \$156,650 each, one additional paralegal at a cost of \$104,551, and one legal secretary at a cost of \$90,750 (position costs include salaries and benefits). Total cost for the new positions is \$508,601 annually. The OAG reports that funding these positions for three months at the end of FY 2023, at an estimated cost of \$127,150, would help the agency prepare for the expected increase in litigation.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, Office of Attorney General

- 10. Technical Amendment Necessary:** No

**11. Other Comments:** DOC also reports that as of December 31, 2022, there were 772 inmates sentenced under the parole system who have a subsequent felony offense. All of these inmates committed at least one felony before July 1, 1995. These inmates earn sentence credits under a different system that is not associated with the enhanced earned-sentence-credit system. According to DOC, it is not clear at this time how these inmates would be affected under the proposed bill.