

## **Department of Planning and Budget**

### **2023 Fiscal Impact Statement**

**1. Bill Number:** HB2013 S1

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

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

**2. Patron:**        Adams, L.R.

**3. Committee:** Judiciary

**4. Title:**        Probation, revocation, and suspension of sentence; penalty.

**5. Summary:** This bill amends laws that govern the length of probation terms and the suspension or modification of sentences in the following ways:

- Currently, the court is allowed to fix the period of probation for up to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned, regardless of the charge. This bill limits the length of probation to no more than two years for any offense punishable as a Class 1 or Class 2 misdemeanor.
- The bill adds the offense of crimes against nature (§ 18.2-361), committed on or after July 1, 2023, to the list of offenses for which, if some period of the sentence for the offense is suspended, the period of suspension must equal the statutory maximum period for which the defendant might originally have been sentenced.

The substitute bill contains an enactment clause that states that the provisions of this act shall not become effective unless reenacted by the 2024 Session of the General Assembly.

**6. Budget Amendment Necessary:** Yes. Item 404.

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

**8. Fiscal Implications:** By requiring judges to order a period of suspension and period of probation equal to the statutory maximum penalty for offenders convicted of felonies under §18.2-361 (crimes against nature), these offenders may be subject to revocation by the court for a longer period of time than under current law. Should additional offenders receive state-responsible (prison) terms for revocations, as compared to current law, the proposal may increase the future prison bed space needs of the Commonwealth. However, current data are insufficient to estimate the number of individuals likely to be affected by the proposed changes or the impact on sentencing.

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 2, 2022

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 VCSC, 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 and \$15.00 a day for each state-responsible prisoner. It also funds a considerable portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2022), the estimated total state support for local jails averaged \$40.39 per inmate, per day in FY 2021.

This bill is not expected to have a material impact on the Department of Corrections, the Virginia Parole Board or courts.

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

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None