

Department of Planning and Budget
2023 Fiscal Impact Statement
REVISED 2/2/2023

1. Bill Number: SB1080

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

2. Patron: Edwards

3. Committee: Judiciary

4. Title: Juvenile and domestic relations district courts; Department of Juvenile Justice; delinquency.

5. Summary: Raises the maximum age for delinquency matters in juvenile and domestic relations district courts from persons under 18 years of age to persons under 21 years of age. The bill defines "underage person" as an individual who is 18 years of age or older but younger than 21 years of age. The bill adds underage persons to all provisions regarding delinquency proceedings in juvenile and domestic relations district courts, the transfer of delinquency matters to circuit courts, and criminal procedure as currently applies to juveniles only. The bill differentiates between juveniles and underage persons in specific circumstances, including consent for medical or mental health records or procedures, mental health screenings in secure detention facilities, and provisions regarding release on bail or recognizance. The bill also specifies that a delinquent child is a child 11 years of age or older who has committed a delinquent act. Currently, there is no minimum age for a child to be adjudicated delinquent. The bill provides that if a juvenile younger than 11 years of age is found to have committed a delinquent act, the juvenile shall not be proceeded upon as delinquent; however, the court may make any orders of disposition authorized for a child in need of services or a child in need of supervision. The bill contains an enactment date of January 1, 2025, and provides that the provisions of the act shall apply prospectively and only to conduct or an offense that occurs on or after January 1, 2025.

6. Budget Amendment Necessary: Yes. Items 42, 46, 76, 311, 425, 427.

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

8. Fiscal Implications: The Department of Juvenile Justice (DJJ) estimates that the proposed legislation will have a fiscal impact on the agency's operations and bed capacity.

Court Services Unit (CSU)

DJJ's Court Service Unit (CSU) provides services to the Juvenile & Domestic Relations District Courts (JDR), including investigation, probation, parole, case management, and

intake. An intake officer at the CSU reviews complaints and files a petition initiating formal court action. According to DJJ, CSU probation officers averaged 7,567 intakes annually between FY 2017 and FY 2022 for 17-year-olds. Assuming the same intake numbers annually for 18-, 19-, and 20-year-olds, DJJ estimates its caseload would increase to 22,701. This would require up to 215 additional probation officers. The annual general fund fiscal impact is estimated to be \$35,973,163, which includes positions, training, travel costs, and supplies, including computers and cell phones.

Bon Air Juvenile Correctional Center

The proposed legislation is expected to increase the number of juveniles committed to DJJ. Currently, DJJ operates only one Juvenile Correctional Center (JCC) in Bon Air, which has a 284-bed capacity. In fiscal year 2022, the average daily population at the Bon Air JCC was about 106 residents. DJJ estimates it will need funding for expansion and/or a new facility to accommodate the newly committed juveniles under this bill. Currently, the agency is authorized to construct a new 60 bed juvenile facility; however, the project is at the early stages and not likely to absorb any juveniles committed to DJJ associated with the proposed legislation. At this time, the estimated cost of a new facility or expansion is not known. Should a new facility be required, annual operating funds would also be needed to support the facility's operations.

The Governor's introduced budget (HB1400/SB800) included the transfer of \$2,597,352 in bond appropriation to DJJ from the Department of Corrections (DOC) for DJJ to use to Renovate the Bon Air JCC. DJJ also received \$764,839 in general fund operating funds in fiscal year 2024 to increase capacity at the Bon Air JCC, and an additional \$2,927,069 general fund to operate and lease three local juvenile detention centers to house juveniles committed to DJJ to address the increase in population related to the change in length of stay. However, it is unknown at this time what additional funding would be needed beyond what has been included in the Governor's introduced budget to address the impact of the proposed legislation.

Local and regional juvenile detention homes

The Virginia Juvenile Detention Association operates 24 local and regional juvenile detention homes in the Commonwealth. It is anticipated that there would be a significant fiscal impact on local juvenile detention centers, although the exact impact cannot be determined at this time. According to the Association, it is significantly more expensive to house 18- to 21-year-olds at a juvenile facility as opposed to a local jail because juvenile facilities are differently regulated and because they are mandated to provide educational services. The Association estimates it costs between two and four times more to house an offender at a juvenile facility than at a local jail for adults. Additionally, local juvenile facilities are required to maintain a staffing ratio of 1:8 per resident, so it is anticipated this proposal would require significant additional staffing costs, including staff to address direct care, supervision, management, medical services, food services, custodial needs, and administration. It is also unknown at this time what additional services the new population would require that the local juvenile centers do not currently offer, and what those costs

might be. This may include additional vocational education, social work, and case management.

Also, according to the Association, several local detention centers are small (some have a maximum capacity of 20 beds), and do not have the capacity to house a large increase in the population. They also do not currently have the capacity to separate minors as young as 11 from individuals over age 18 as required by law. Such separation would be challenging even for larger facilities. This limitation might require the construction of additional facilities or the extensive renovation of current facilities to make these accommodations, but there are no cost estimates for this available at this time.

Courts

According to the Courts, there are approximately 60,162 cases annually that are committed by people between ages 18 and 21 and heard in either general district courts (GDC) or circuit courts. Assuming the number of cases stays constant, it can be expected that the caseload for JDR courts will increase by this amount. According to the Courts, JDR cases are significantly more involved than cases in other courts. They typically require multiple hearings, involve other agencies and community partners, and have significantly more documentation including intermediate pleadings and reports for clerks to process and judges to review. It is estimated that an increase in cases of this magnitude would require an additional 82 positions in JDR courts across the state, at a general fund cost of \$5,555,992 annually.

The increase in caseload in JDR courts is also expected to increase the number of JDR judges needed. However, a determination of the size of any necessary increase cannot be determined until the next Judicial Workload Study is conducted, according to the Courts.

Additionally, the proposed legislation would require programming changes to the juvenile court Case Management System (JCMS). These changes involve differentiating in the system between juveniles and “underage persons,” as defined in the bill, because the bill allows for many, but not all, of the dispositional alternatives available for delinquency cases to be applicable to offenses committed by underage persons. Various interfaces with other state agencies that are maintained by the Office of the Executive Secretary of the Supreme Court (OES) would require similar programming changes. The OES estimates that these changes will require a one-time general fund expense of \$1,985,705.

Department of Corrections

The Department of Corrections (DOC) does not anticipate a significant fiscal impact to its operations as a result of the provisions of this proposed legislation.

Indigent Defense Commission

According to the Indigent Defense Commission (IDC), no significant impact on operations is anticipated at this time as a result of the proposed bill.

Commonwealth's Attorneys

According to the Virginia Association of Commonwealth's Attorneys (VACA), the proposed legislation is anticipated to have a fiscal impact on the workload of Commonwealth's Attorneys. Although some existing resources may be diverted from GDC to JDR dockets, significant additional resources will be needed to accommodate the workload that is unique to cases heard in JDR courts. VACA estimates that 196 additional positions will be needed, including 166 attorney positions, 18 juvenile justice secretary positions, four juvenile paralegal positions, and eight administrative assistant positions. It is estimated that the total general fund cost for these positions is \$13,690,216 in the first fiscal year the bill is effective and \$14,934,781 in the following fiscal year.

Department of Behavioral Health and Developmental Services

This document is being updated to reflect information received from the Department of Behavioral Health and Developmental Services (DBHDS). According to the agency, the bill would create a fiscal impact through the evaluation and provision of restoration services for underage persons found incompetent to stand trial. DBHDS currently provides restoration services to approximately 250 juveniles each year. Since many psychotic disorders have their onset in the late teens and early twenties, the agency expects that underage persons, as defined in the bill, are more likely to require inpatient restoration than juveniles. DBHDS projects that this bill will increase the number of cases in underage persons by 50-75 per year. Since the bill also specifies that a delinquent child is a child 11 years of age or older, this change could reduce the number of restoration cases DBHDS must perform on children younger than 11, who would no longer be required to stand trial, according to the bill. DBHDS estimates this portion of the bill would reduce its caseload by approximately 25 cases per year.

In order to respond to the estimated increase of 25-50 cases per year, DBHDS estimates it would need an additional position at its central office to provide restoration counseling services. The cost for this position is \$117,334 annually, which includes salary, benefits, supplies, and vehicle costs.

Additionally, DBHDS currently provides restoration services to all incompetent juveniles where they are located, which could be a group home, a residential facility, or a detention center. The bill would require a similar process for underage persons. In cases where juveniles are located in parts of the Commonwealth that do not have direct care staff available, the agency uses contractor support. DBHDS estimates that the proposed legislation will require an additional \$70,000 in contractual services costs per year, which includes \$25,000 for evaluations and \$45,000 for services provided in the community through Community Services Board (CSB) contracts. According to DBHDS, this population would only require outpatient evaluation services and would have no impact on bed days. Several factors make up the cost of a juvenile restoration case, including: admission evaluation of competence to stand trial (\$400 per evaluation), competency restoration services planning (\$100 per plan), competency restoration services (\$70 per hour), case management services (\$70 per hour), clinical supervision (\$70 per hour), case management services travel (\$35 per

hour), mileage reimbursement (\$.0655 per mile), and post restoration evaluation of competency to stand trial (\$400 per evaluation).

The total estimated cost to DBHDS is estimated to be \$96,167 in fiscal year 2025 (reflecting the January 1, 2025 effective date of the bill) and \$187,334 annually beginning in fiscal year 2026.

Virginia Criminal Sentencing Commission

According to information from the Virginia Criminal Sentencing Commission, because the proposed legislation would raise the age for jurisdiction for the juvenile and domestic relations courts, this could result in fewer individuals being prosecuted and convicted in circuit court. If so, the bill would reduce the number of state-responsible (prison) beds needed, and the estimated impact on DOC would be \$0. Since not enough information is available to estimate how many underage persons' cases will be transferred to and tried in circuit court, any potential net reduction in the number of needed prison beds is indeterminate at this time.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Juvenile Justice, Department of Corrections, Office of the Executive Secretary of the Supreme Court, Department of Behavioral Health and Developmental Services, Indigent Defense Commission, Commonwealth's Attorneys, local and regional juvenile detention centers, local and regional jails.

10. Technical Amendment Necessary: No.

11. Other Comments: None.