

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: SB1207S2

House of Origin ☐ Introduced ☒ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: McDougale

3. Committee: Judiciary

4. Title: Crimes by gangs.

5. Summary: Expands the definition of a “predicate criminal act” associated with gang activity to include any violent felony offenses (as laid out in § 17.1-805 C). The proposal also increases existing felony penalties for certain gang crimes and expands the applicability of enhanced penalties involved with criminal street gang participation when an offender commits a predicate criminal act.

6. Budget Amendment Necessary: Yes. Item 404

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

8. Fiscal Implications: Currently, any person who actively participates in or is a member of a criminal street gang and who knowingly and willfully participates in any predicate criminal act committed for the benefit of, at the direction of, or in association with any criminal street gang shall be guilty of a Class 5 felony. The proposed bill makes this a Class 4 felony. However, if such participant in or member of a criminal street gang is eighteen years or older and knows or has reason to know that such criminal street gang also includes a juvenile member or participant, he is guilty of a Class 4 felony. The proposed bill makes this a Class 3 felony.

The proposal also amends and increases penalties under § 18.2- 46.3:3 which provides enhanced penalties for violations of § 18.2-46.2 occurring (i) on or within 1,000 feet of school property; (ii) on a school bus; or (iii) on the property of a publicly owned or operated community center or recreation center. It also amends § 18.2-46.3:1, a third or subsequent conviction for a gang offense.

The proposal expands the list of crimes that trigger felony penalties for gang participation and raises the existing penalties for several gang related crimes. Therefore, it is expected to have an impact on the future state-responsible (prison) bed space needs of the Commonwealth. The impact is estimated to be at least 9 beds statewide by FY2029. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is at least \$437,679. According to the Virginia Criminal Sentencing Commission (VCSC), this is a minimum estimate, as this figure does not include the impact the proposal may have on gang

recruitment offenses under § 18.2-46.3 nor does it reflect the potential increase in sentences that may result from the higher penalties that are proposed; the data are insufficient to estimate the impact of those aspects of the proposal.

The proposal is not expected to increase local-responsible (jail) bed space needs.

9. Specific Agency or Political Subdivisions Affected: Courts, Department of Corrections (DOC), law enforcement agencies, and local and regional jails.

10. Technical Amendment Necessary: No.

11. Other Comments: None.