

## Department of Planning and Budget 2024 Session Fiscal Impact Statement

**1. Bill Number:** HB45 S1

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

**2. Patron:** Seibold

**3. Committee:** Courts of Justice

**4. Title:** Earned sentence credits; incarceration prior to entry of final order of conviction.

**5. Summary:** Under current law, every person who is convicted of a felony offense committed on or after January 1, 1995, and who is sentenced to serve a term of incarceration in a state or local correctional facility is eligible to earn sentence credits in the manner prescribed by 53.1-202.2 (Eligibility for earned sentence credits). Such eligibility commences upon the person's incarceration in any correctional facility following entry of a final order of conviction by the committing court.

This bill provides that any period of time actually spent in any state or local correctional facility, state hospital, or juvenile detention facility for such offense must be deducted from such person's term of incarceration or detention pursuant to § 53.1-187 (Credit for time spent in confinement while awaiting trial) and be used in calculating earned sentence credits.

An enactment clause makes the provisions of this bill retroactive for any person who is confined in any correctional facility on July 1, 2024. If it is determined that the release date of any such person passed prior to the effective date of this act, the person must be released upon approval of an appropriate release plan within 60 days of such determination unless otherwise mandated by court order. If a person is released prior to completion of any reentry programs deemed necessary by the Department of Corrections on the person's most recent annual review or prior to completion of any programs mandated by court order, the person is required to complete such programs under probation, provided probation is mandated by the court and current community resources are sufficient to facilitate completion of the aforementioned programs. The enactment clause also establishes that no person can claim wrongful incarceration based on such retroactive application.

**6. Budget Amendment Necessary:** Yes, Item 390.

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

**8. Fiscal Implications:** According to the Department of Corrections (DOC), inmates do not currently receive earned sentence credits on time served for incarceration periods prior to conviction. Under the provisions of the substitute bill, inmates would receive credit for time served in jails, juvenile detention centers, or state hospitals. The substitute bill also makes this change retroactive for any inmate who is confined on July 1, 2024. According to DOC,

this would require the recalculation of records for all inmates with earned-sentence-credit-eligible sentences, which is approximately 95 percent of the 23,697 inmates currently in DOC facilities.

The provisions of this bill are expected to reduce the total amount of time an inmate has to serve, which would, in turn, lower costs for the Commonwealth. However, tracking and reporting time served in other facilities so that inmates' remaining time to serve and earned sentence credits can be calculated based on periods of time spent in other facilities would require new reporting processes and agreements between DOC, and local and regional jails, the Department of Behavioral Health (DBHDS), and the Department of Juvenile Justice (DJJ). Therefore, the actual number of inmates affected by this bill and the impact it would have on inmates' lengths of sentences is not known at this time.

DOC reports that this bill would require extensive modification upgrades to the CORIS, which is the offender management system DOC uses to calculate earned sentence credits. Because of the complexity of the changes, DOC estimates the one-time cost of the required modifications at \$500,000 and estimates that at least 12 months would be needed to implement and test the changes.

DOC reports that four Time Compensation Specialist positions, at a cost of \$75,200 per position (includes salary and fringe benefits) for a total of \$300,800 general fund would be needed to perform the inmate record reviews required by this legislation. In addition, although the volume and timing of inmate releases resulting from this legislation are not known at this time, additional Probation and Parole Officers may be required to supervise inmates who are released to the community. The cost of each additional officer would be \$76,811 general fund (includes salary and fringe benefits).

According to the Compensation Board, although this bill may reduce the total time an inmate is required to serve, it is not expected to reduce the time an inmate spends in jail and, therefore, would not have an impact on the per diem amounts the Commonwealth pays to jails.

The impact this bill may have on the inmate management systems used by the Compensation Board and local and regional jails is not known at this time. The impact this bill may have on the DBHDS and DJJ is also not known at this time.

**9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, local and regional jails, Department of Behavioral Health and Developmental Services, Department of Juvenile Justice (DJJ)

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None