

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: HB77 E

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

2. Patron: Watts

3. Committee: Courts of Justice

4. Title: Robbery; conforms certain provisions of the Code of Va. to the degrees of robbery offenses, etc.

5. Summary: This bill conforms certain provisions of the Code of Virginia to the degrees of robbery offenses established by Chapter 534 of the Acts of Assembly of 2021, Special Session I, which established four levels of penalties for robbery: Class 2 felony when serious bodily injury or death is caused; Class 3 felony when a firearm is displayed or used in a threatening manner; Class 5 felony when physical force was used but did not result in serious bodily injury; and Class 6 felony when threat, intimidation, or any other means not involving a deadly weapon is used.

Changes proposed by this bill include:

- adding the two lesser degrees of robbery to the definition of "predicate criminal act";
- limiting to the two higher degrees of robbery certain non-robbery crimes for which committing such crime with the intent to commit a robbery is an element of the offenses;
- allowing persons convicted of the two lesser degrees of robbery to be eligible for conditional release if they are terminally ill and for the enhanced earned sentence credits;
- allowing persons who are ineligible for parole as a result of being convicted of three certain enumerated offenses to be eligible for parole if convicted of an offense that would constitute any of the three lesser degrees of robbery; and
- limiting the application of the three-strikes law to the two higher degrees of robbery and making persons convicted under the three-strikes law eligible for parole if one of the three convictions resulting in the mandatory life sentence would constitute one of the two lesser degrees of robbery.

An enactment clause provides that any person convicted of robbery under § 18.2-58 of the Code of Virginia, as it was in effect prior to July 1, 2021, where such conviction would have rendered such person ineligible for conditional release pursuant to § 53.1-40.02 of the Code of Virginia, as amended by this act, is eligible for conditional release in accordance with the provisions of § 53.1-40.02 of the Code of Virginia, as amended by this bill, provided that such person, during the commission of such robbery, did not (i) cause serious bodily injury to or the death of another person or (ii) use or display a firearm in a threatening manner.

6. Budget Amendment Necessary: Indeterminate

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

8. Fiscal Implications: The Virginia Criminal Sentencing Commission (VCSC) provided the information below on FY 2023 robbery sentencing events. These are sentencing events in which the specific robbery was the primary (most serious) offense at sentencing. If robbery was an additional offense to a more serious felony, the sentencing event was not included in the table. A sentencing event may involve more than one count of robbery. The table includes attempted and conspired robberies.

According to VCSC, these numbers may be an undercount as the new penalties for robbery applied to offenses committed on or after July 1, 2021, unless the prosecutor agreed to apply the new penalties retroactively to an older case, which is discretionary on the part of the prosecutor. VCSC reports that it takes two to three years for a new law to reach its full impact.

	Number of Sentencing Events
Most Serious Offense – FY2023	
Robbery - Death/Serious Injury (Class 2 Felony)	11
Robbery - Firearm (Class 3 Felony)	78
Robbery - Phys Force/Other Deadly Weapon (Class 5 Felony)	67
Robbery - Threat/No Deadly Weapon (Class 6 Felony)	33
Total	189

According to the Department of Corrections, as of December 31, 2023, there were ten state-responsible inmates with a most serious offense of robbery who met the provisions of §19.2-297.1 (Sentence of person twice previously convicted of certain violent felonies). Therefore, the provisions of this bill are not expected to have a significant impact on prison bedspace needs.

The impact this bill may have on local and regional jails is not known at this time. If additional information becomes available, this impact statement will be revised.

The Virginia Parole Board reports this that bill has no fiscal impact on agency operations. The number of potential conditional releases was not provided but is expected to be small.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Department of Juvenile Justice, local and regional jails, Virginia Parole Board, Local law enforcement agencies, Courts, Commonwealth's Attorneys, and Public Defenders Offices

10. Technical Amendment Necessary: No

11. Other Comments: None