

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: HB47

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Anderson

3. Committee: Courts of Justice

4. Title: Violation of the terms and conditions of a suspended sentence or probation; technical violations.

5. Summary: Current law defines technical violation of probation by listing specific infractions committed by a probationer. Current law prohibits the court from imposing an active term of incarceration for a first technical violation; limits, in cases where a defendant cannot be safely diverted through less restrictive means, to not more than 14 days of active incarceration for a second technical violation; and allows the court to impose whatever sentence might have been originally imposed for a third or subsequent technical violation.

This bill removes from the definition of technical violation based on a probationer's failure to:

- refrain from the use, possession, or distribution of controlled substances or related paraphernalia;
- refrain from the use, ownership, possession, or transportation of a firearm;
- gain permission to change his residence or remain in the Commonwealth or other designated area without permission of the probation officer; or
- maintain contact with the probation officer whereby his whereabouts are no longer known to the probation officer.

6. Budget Amendment Necessary: Yes. Item 404.

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

8. Fiscal Implications: . However, according to the Virginia Criminal Sentencing Commission (VCSC), current data are insufficient to estimate the number of individuals likely to be affected by the proposed changes. The proposed legislation redefines technical violations and removes the caps for probation supervision and restrictions on the time that may be imposed for violations of certain probation conditions. By removing the caps, some felony offenders may be sentenced to supervised probation terms greater than the current five-year limit, and sentences for some probationers found to have committed technical violations may be higher than under current law. Should additional offenders receive state-responsible (prison) terms for probation violations (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. Therefore,

the magnitude of the impact cannot be determined. Although it is not feasible to estimate the impact this bill may have in the future, incarcerating probation violators could increase state-responsible (prison) bed space needs.

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 552, 2021 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. It also funds a portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020. The Commonwealth pays localities \$12.00 a day for any state-responsible prisoner held in a local jail.

The impact this bill may have on courts is not known at this time.

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

10. Technical Amendment Necessary: No

11. Other Comments: None