



## Fiscal Impact Statement for Proposed Legislation

---

### *Virginia Criminal Sentencing Commission*

#### **Senate Bill 1080** **(Patron—Peake)**

**LD#:** 25104248

**Date:** 01/08/2025

**Topic:** Earned sentence credits for certain offenses

#### **Fiscal Impact Summary:**

- **State Adult Correctional Facilities:**  
At least \$11,800,492 (215 beds)\*
- **Local Adult Correctional Facilities:**  
At least \$177,795 (9 beds)\*
- **Adult Community Corrections Programs:**  
\$0 (None)

- **Juvenile Direct Care:**  
Cannot be determined\*\*
- **Juvenile Detention Facilities:**  
Cannot be determined\*\*

\*\*Provided by the Department of Juvenile Justice

\* Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

---

#### **Summary of Proposed Legislation:**

In 2020, the General Assembly amended § 53.1-202.3 to establish higher, or enhanced, rates of earned sentence credits (up to 15 days for every 30 days served) for incarcerated individuals serving time for certain felonies, including most property and drug offenses. The provision became effective on July 1, 2022. The enhanced sentence credits applied retroactively to the entire sentence of any person who was confined in a state correctional facility and participating in the earned sentence credit system on July 1, 2022.<sup>1</sup> Individuals serving time for specified offenses (mostly violent crimes) were excluded from the enhanced sentence credits and continue to earn at the lower rates (maximum of 4.5 days for every 30 days served).

Currently, individuals convicted of attempts, conspiracies, and solicitations to commit any offense listed in § 53.1-202.3(A) earn sentence credits at the higher rate (up to 15 days per 30 days served).<sup>2</sup> The proposal amends § 53.1-202.3 to specify that a person who is convicted of an attempt, conspiracy or solicitation for any offense listed in § 53.1-202.3(A) must earn sentence credits at the same rate as a completed offense (maximum of 4.5 days for every 30 days served). The proposal adds accessories before the fact and principals in the second degree to aggravated murder (§ 18.2-31), acts which are punishable as Class 2 felonies (see § 18.2-18), to the list of crimes limited to a maximum of 4.5 days for every 30 days served.

---

<sup>1</sup> See fourth enactment clause of House Bill 5148 as passed by the 2020 General Assembly, Special Session I.

<sup>2</sup> Following the Supreme Court of Virginia decision in *Vasquez v. Dotson* on April 18, 2024, the Virginia Department of Corrections began recalculating release dates, applying the enhanced sentence credit rates (maximum of 15 days for every 30 days served), for all inmates serving time for attempts, conspiracies, or solicitations to commit crimes listed in § 53.1-202.3 (with the exception of solicitation to commit murder, as that crime is specifically listed in § 53.1-202.3(A) as being limited to 4.5 days for every 30 days served).

The proposal also specifies that an individual is not eligible for the enhanced sentence credits for any offense if, during the same term of incarceration, he is also serving time for one or more of the exclusionary felonies listed in § 53.1-202.3(A). Language in the Appropriation Act adopted by the 2023 General Assembly (Special Session I) included language that imposed this restriction; however, the language was not included in the Appropriation Act passed by the 2024 General Assembly (Special Session I) that became effective on July 1, 2024.

Finally, the proposal contains an enactment clause specifying that all new provisions, other than that relating to attempts, conspiracies, and solicitations, must apply retroactively to the entire sentence of any person who is confined in a state correctional facility and participating in the earned sentence credit system on July 1, 2025.

---

### Analysis:

Based on an analysis of Circuit Court Case Management System (CMS) data, 1,148 felony offenders sentenced in FY2023 and FY2024 would have been subject to the legislation had it been in place at that time. This number excludes individuals who did not receive an active term of incarceration for the affected offenses and individuals who received a sentence of life. The majority of these offenders (1,023 of the 1,148) received a state-responsible (prison) term for the sentencing event. The median prison sentence in these events was 6.0 years.

---

### Impact of Proposed Legislation:

**State adult correctional facilities.** By limiting the sentence credits that may be earned by some state-responsible inmates, the proposal may increase the number of state-responsible (prison) beds needed to house affected individuals. The impact is estimated to be at least 215 beds by FY2031. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is at least \$11,800,492. This estimate reflects the impact of the proposed changes on offenders sentenced for a felony offense committed on or after July 1, 2025, as specified in the bill's second enactment clause. The analysis does not include offenders sentenced solely for probation or other supervision violations, as the specific underlying offense is not easily identifiable in the available data.

#### Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY26	FY27	FY28	FY29	FY30	FY31
4	18	78	136	188	215

**Local adult correctional facilities.** The bill may also increase the need for local-responsible (jail) beds, specifically for felony offenders given a sentence of 12 months or less. The impact on jail beds is estimated to be at least 9 beds by FY2031 (state costs: \$177,795; local costs: \$273,786).

#### Estimated Six-Year Impact in Local-Responsible (Jail) Beds

FY26	FY27	FY28	FY29	FY30	FY31
0	8	8	8	9	9

**Adult community corrections resources.** The proposal is not expected to increase the need for community corrections resources and will delay the need for services for some offenders, as they will remain incarcerated longer prior to being released to the community.

**Virginia's Sentencing Guidelines.** The bill affects sentence credits that may be earned by convicted felons after sentencing. No immediate adjustment to the Sentencing Guidelines would be necessary under

the proposal. If the proposal is enacted, the Sentencing Commission in the future would conduct detailed analyses of sentencing patterns to determine if revisions to the Guidelines are necessary.

**Juvenile direct care.** According to the Department of Juvenile Justice (DJJ), the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

---

**Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is at least \$11,800,492 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

**Assumptions underlying the analysis include:**

**General Assumptions**

1. State and local responsibility is based on § 53.1-20 as analyzed for the Secretary of Public Safety's Committee on Inmate Forecasting in 2024.
2. New cases resulting in state-responsible sentences were based on forecasts approved by the Secretary of Public Safety's Committee on Inmate Forecasting in 2024.
3. Cost per prison bed was assumed to be \$54,915 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.*
4. Cost per jail bed was based on The Compensation Board's FY2023 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$56.38 per day or \$20,593 per year. The local cost was calculated by using the daily expenditure cost of \$148.62 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$86.82 per day or \$31,711 per year. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.*

**Assumptions relating to offenders**

1. The Commission used Circuit Court Case Management System (CMS) data to identify felony offenders sentenced in FY2023 and FY2024 would have been subject by the legislation had it been in place at that time. The analysis identified 1,148 felony offenders who 1) were sentenced for an attempted, conspired, solicited offense affected by the proposal or 2) were sentenced on the same date i) for an offense currently eligible for the enhanced sentence credits and ii) an offense limited to the lower rates of sentence credits pursuant to § 53.1-202.3(A). This number excludes individuals who did not receive an active term of incarceration for the affected offenses. Individuals who received a sentence of life were also excluded. The majority of these offenders (1,023 of the 1,148) received a state-responsible (prison) term for the sentencing event.

**Assumptions relating to sentencing and time served**

1. For each defendant in the FY2023-FY2024 data who would have been affected by the proposal had it been in place at that time, the Commission identified the effective sentence (imposed sentence less any suspended time) for the affected offenses.
2. To estimate the time period served on specified felony offenses under existing law, the Commission applied rates of earned sentence as authorized by § 53.1-202.3. The Commission assumed all affected offenders currently earn sentence credits based on the average rate at which offenders in Department of Corrections (DOC) facilities were earning sentence credits as of August 30, 2024. This average rate was calculated based only on offenders who are eligible for the enhanced sentence credits (maximum of 15 days for every 30 served).
3. To estimate the time that would be served as a result of the proposal, the Commission assigned affected offenders the lower sentence credit rates as provided in § 53.1-202.3(A). The Commission applied the overall average rate at which inmates subject to the lower sentence credits were earning as of August 30, 2024.
4. The additional time to be served by each defendant was estimated by calculating the difference between the time to be served under the proposal and the time served currently.

**Limitations**

1. The analysis does not include offenders sentenced solely for probation or other supervision violations, as the specific underlying offense is not easily identifiable in the available data.