

Department of Planning and Budget
2025 General Assembly Session
State Fiscal Impact Statement

Position Impact:

<u>Agency</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
Indigent Defense Commission		At least 460	At least 460	At least 460	At least 460	At least 460
Compensation Board (Commonwealth's Attorneys)		470	470	470	470	470
TOTAL		At least 930	At least 930	At least 930	At least 930	At least 930

Fiscal Analysis:

Indigent Defense Commission (IDC)

Currently, there are 29 public defender offices across the Commonwealth. Indigent defendants who are charged with criminal offenses in circuit and district courts in localities without public defender offices are represented by court-appointed counsel, which are compensated from the Criminal Fund. The IDC based its analysis on a study reviewing Virginia's system of attorneys for indigent criminal defendants and prosecution of criminal cases published by the Joint Audit and Legislative Review Commission (JLARC) in November 2023. According to the IDC, this bill would require an additional 24 public defender offices statewide and one appellate defender office. Costs to establish and maintain the new offices include personnel costs estimated between \$51.4 million and \$67.0 million (attorneys and support staff, see table below). IDC provided two options for the number of support staff needed, one based on the support staff ratio in place in fiscal year (FY) 2022 and one on the support staff ratio recommended by the National Association of Public Defenders (NAPD). Costs for both staffing options shown in the table below include salary and benefits. Staffing differences between the options are highlighted.

Position Title	Annual Cost	# Positions FY2022 Support Staff Ratio	Total Cost FY2022 Support Staff Ratio	# Positions NAPD Ratio	Total Cost NAPD Ratio
Public Defender	\$197,293	23	\$4,537,854	23	\$4,537,854
Deputy Public Defender	\$151,981	23	\$3,495,563	23	\$3,495,563
Senior Asst. Public Defender	\$138,193	47	\$6,495,071	47	\$6,495,071
Public Defender II	\$122,432	111	\$13,589,952	111	\$13,589,952
Public Defender I	\$110,611	106	\$11,724,766	106	\$11,724,766
Paralegal	\$80,499	19	\$1,529,481	66	\$5,312,934
Investigator	\$88,257	33	\$2,912,481	90	\$7,943,130
Mitigation Specialist	\$88,586	23	\$2,037,478	89	\$7,884,154
Office Manager	\$76,056	22	\$1,673,232	22	\$1,673,232
Legal Assistant	\$66,191	53	\$3,508,123	66	\$4,368,606
Total		460	\$51,504,001	643	\$67,025,262

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In addition, IDC would require funding for ongoing operating costs, other central administrative costs, and one-time office set-up costs as described in the table below. As with personnel costs, some of these costs are dependent upon the number of support staff in each office. Costs shown below include all 24 new public defender offices and the appellate defender office.

Cost Category	# Positions	Total Cost Based on FY2022 Support Staff Ratio	Total Cost Based on NAPD Staff Ratio
Ongoing Operating Costs (building rentals, IT systems maintenance, travel, etc.)	N/A	\$5,044,944	\$7,090,100
Other Administrative Costs (central information technology [IT], human resource, finance, and procurement staff)	16	\$1,644,425	\$1,644,425
One-time Start-up Costs (computer and office equipment, furnishings, etc.)	N/A	\$1,434,000	\$1,644,425
Total	16	\$8,123,369	\$10,717,525

In total, the range for first-year costs for the new public defender offices is between \$59.6 million and \$77.7 million from the general fund; the range for each year thereafter is estimated at \$58.2 million and \$75.6 million from the general fund.

Courts (Criminal Fund)

According to the Office of the Executive Secretary of the Supreme Court (OES), between FY2022 and FY2024, an average of \$30,089,388 was paid to court-appointed counsel for indigent defendant representation. It is assumed that much of the yearly Criminal Fund payments for court-appointed counsel would be eliminated under the provisions of this bill because public defenders would become responsible for representation of indigent criminal defendants. However, court-appointed counsel payments would still be necessary in instances where the public defender offices cannot provide representation, for example, if there is conflict of interest, or if the court finds other court-appointed counsel is necessary to attain the ends of justice. The \$19.5 million reduction provided by OES assumes a 65 percent reduction in payments from the Criminal Fund.

The bill also provides fee cap increases for attorney representation of all misdemeanor and delinquency cases in district court and most misdemeanor and Class 3 through Class 6 felony cases in circuit court. For context, the OES reported that the following total amounts were paid from the Criminal Fund in FY2024: \$10.0 million was paid for appointed representation in adult misdemeanor cases in general district and circuit courts and \$25.4 million was paid to appointed counsel for representation of defendants in Class 3 through Class 6 felony cases heard in circuit courts. Further, \$3.7 million was spent for representation of juveniles in juvenile and domestic relations court for violations that would be misdemeanors if committed by adults and \$286,883 was spent for representation in cases that would be felonies if committed by adults. However, the OES reports that

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IT system upgrades that would segregate these payments in a way that would help analyze the impact of the fee increases proposed by this bill went into effect on January 1, 2025, and are too recent to yield useful results. Therefore, the fiscal impact of raising fees is indeterminate.

Compensation Board

The Compensation Board reports that staffing standards for Commonwealth's Attorneys' offices are calculated based on workload analysis for all cases but that currently, state funding is provided only for workload associated with felony prosecutions. To expand this to include misdemeanor prosecutions would significantly impact the funding needed for Commonwealth's Attorneys offices. According to the Compensation Board, the bill would require 423 additional prosecutor positions at a cost of \$36.3 million, as well as 106 additional paralegal positions and 211 administrative assistant positions, at a cost of \$13.5 million. The total cost for these positions is \$49.8 million general fund, annually.

Workers' Compensation Commission - Virginia Victims' Fund VVF)

The VVF is a program that helps victims of violent crime cover out-of-pocket expenses, which can include medical bills, prescriptions, funeral expenses, etc. The VVF is funded by fines and fees collected from offenders and does not receive any state funding. According to the Workers' Compensation Commission, expanding the definition of victim to include anyone who is awarded restitution according to the provisions of the bill would have a significant, but currently indeterminate, impact on the VVF.

Other: This bill is companion to SB1183.