

**Department of Planning and Budget
2026 General Assembly Session
State Fiscal Impact Statement**

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ORIGINAL

Bill Number: HB1140 **Patron:** Cherry
Bill Title: Use of confidential informants in drug-related investigations.

Bill Summary: Directs the Department of Criminal Justice Services to establish a model policy for the use of confidential informants in drug-related investigations and to include in such model policy that (i) no individual currently on probation may serve as a confidential informant without notice to his probation or parole officer, (ii) no individual who has recently violated the terms of his probation or parole shall serve as a confidential informant, (iii) law-enforcement personnel shall obtain approval from the appropriate local attorney for the Commonwealth prior to working with a confidential informant, and (iv) such confidential informant shall not unlawfully use or possess any controlled substances.

Budget Amendment Necessary: Yes **Items Impacted:** 391, 64
Explanation: See fiscal analysis

Fiscal Summary: The proposed legislation has a workload impact on the Department of Criminal Justice Services (DCJS), although as a standalone bill, the fiscal impact is absorbable (see fiscal analysis below).

The Virginia Commonwealth's Attorneys' Services Council (CASC) estimates that this proposal will cause an additional 1,360 attorney hours of work statewide per year. Per the Compensation Board's January 2026 estimate, the cost of Commonwealth's Attorney work is \$107 per hour of attorney work projected in fiscal year 2027. Therefore, CASC estimates that this proposal is projected to cost \$145,520 annually in attorney work hours. Changes in this legislation to Commonwealth Attorney duties would potentially change this figure.

General Fund Expenditure Impact:

<u>Agency</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>	<u>FY2031</u>
Comp Board		\$145,520	\$145,520	\$145,520	\$145,520	\$145,520
TOTAL		\$145,520	\$145,520	\$145,520	\$145,520	\$145,520

Fiscal Analysis: This legislature would require DCJS to develop a model policy governing the use of confidential informants in drug-related investigations. The bill establishes required elements of the model policy, including prohibitions on the use of confidential informants who have recently violated probation or parole, a requirement to notify a probation or parole officer when a supervisee is working as a confidential informant, a mandate to obtain approval from the appropriate Commonwealth's Attorney prior to working with a confidential informant, and a requirement that confidential informants must refrain from the unlawful use or possession of controlled substances.

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According to the DCJS, it is expected that the required model policy development can be absorbed with existing resources. If multiple bills pass requiring similar model policy or training development, then the agency would need to hire one additional position to support the increased workload. DCJS estimates that the workload increase of up to four or five similar bills can be absorbed, dependent on subject matter and complexity.

The estimated annual cost for one criminal justice analyst position to support training or model policy development and regular updates is \$138,621, including salary and benefits.

This proposal would increase the interaction that most prosecutors would have regarding the use of confidential informants in criminal investigations. That is primarily because a “confidential informant” is not defined in this amended code section and thus a court would apply the plain meaning of the terms. “Confidential” means “intended for or restricted to the use of a particular person, group or class.” “Informant” means “a person who gives information to another.” Thus, a “confidential informant” is anyone who gives information that is only intended to be used by the recipient of that information. This definition would cover a range of persons, from a criminal defendant who passes information to law enforcement in hopes of a better plea deal to any person who is an anonymous witness to a crime. Under this proposal, a confidential informant is not simply one who conducts controlled purchases of controlled substances. The bill would require prosecutors to learn if any person who wished to remain anonymous was on probation and notify that person’s probation officer.

CASC expects that it would take 30 minutes of attorney work, on average, per case involving an informant to verify whether or not the informant was on probation or not, notify the probation office if the informant was on probation, determine if the informant had recent convictions or violations related to the use of controlled substances, and finally approve the use of the informant.

CASC estimates that true “confidential informants” (i.e. a person who is receiving a benefit in exchange for his work with law enforcement) have some level of involvement in approximately 10% of felony drug cases as the law exists currently. However, due to the expanded definition of “informant” under this bill, CASC estimates that 20% of cases would feature an “informant” in some capacity (including a citizen calling in with a “tip” to law enforcement). Thus, the average number of informant cases per year would be 2,721 cases. At 2,721 cases per year, with 30 minutes per case, the bill would likely create an additional 1,360 work hours. According to CASC, this estimate is almost certainly an under-reported number because it relies on sentencing events, as opposed to filings.

According to an analysis conducted by the Virginia Compensation Board, as of January 17, 2026, the cost to the Commonwealth is \$105 per hour of attorney work in fiscal year 2026 and the cost to the Commonwealth will be \$107 per hour of attorney work in fiscal year 2027.

Other: None