

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

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ORIGINAL

Bill Number: HB637

Patron: Callsen

Bill Title: Possession of an item containing residue of a controlled substance; penalty.

Bill Summary: Creates a Class 1 misdemeanor for the offense of possession of an item containing residue of a controlled substance. The bill provides that upon motion of the attorney for the Commonwealth, a charge for possession of a controlled substance classified in Schedule I or II of the Drug Control Act may be reduced to unlawful possession of an item containing residue of a controlled substance. Currently, possession of any amount of such controlled substance is a Class 5 felony.

Budget Amendment Necessary: No

Items Impacted: None

Explanation: See below

Fiscal Summary:

There is not enough information available to reliably estimate the change in jail population or revenue generated from fines as a result of this proposal.

Fiscal Analysis:

This proposal authorizes a reduction of Schedule I or II residue cases (§ 18.2-250(A)(a)) from a Class 5 felony to a Class 1 misdemeanor upon motion of the attorney for the Commonwealth.

According to Virginia Sentencing Guidelines data for Fiscal Years (FY) 2024 and 2025, a total of 13,113 Guidelines were received for individuals convicted of possession, attempted possession, or conspiracy to possess a Schedule I or II controlled substance. Of these, 1,547 cases (11.8 percent) were identified as residue cases; however, drug quantity information is frequently missing from the data.

An additional factor affecting the potential impact of the proposal is the discretion of the attorney for the Commonwealth to agree to defer findings in such cases. When findings are deferred and the individual successfully completes the terms of deferral, the charge may be dismissed or reduced to a lesser offense. The extent to which the Commonwealth would apply the proposed reduction, and whether these cases would differ from those already subject to deferred dispositions, is currently unknown.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail and a fine of not more than \$2,500, either or both. Anyone convicted of a Class 5 felony is subject to a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Therefore, this proposal could have an impact on the number of persons sentenced to jail or prison.

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There is not enough information available to reliably estimate the change in jail population as a result of this proposal. However, any change in jail population will change costs to the state. The Commonwealth currently pays the localities \$5.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail and \$15.00 a day for each state-responsible prisoner. It also funds a considerable portion of the jails' operating costs, e.g., correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2025), the estimated total state support for local jails averaged \$58.25 per inmate, per day in FY 2024.

Other: None