

Department of Planning and Budget
2020 Special Session I - Fiscal Impact Statement

1. Bill Number: SB5050

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

2. Patron: Obenshain

3. Committee: Senate Committee on Rehabilitation and Social Services

4. Title: Parole; notice and certification, monthly reports, discretionary early consideration.

5. Summary: The proposed legislation requires the Chairman of the Virginia Parole Board (Board) to certify under oath compliance that require notice to certain persons prior to the release or discharge of any prisoner. The proposed legislation also requires that the monthly reports issued by the Board regarding actions taken on the parole of prisoners (i) be published on the last day of the month and (ii) include the offenses of which prisoners considered for parole were convicted, the jurisdictions in which such offenses were committed, the amount of time served by such prisoners, and the reasons for release or discharge. The proposed legislation also requires that when notice is sent to a victim of the victim's right to present evidence to the Board of the impact that the release of a prisoner will have on the victim, such notice shall also be sent to the attorney for the Commonwealth and the director of the victim/witness program of the jurisdiction in which the prisoner's offense occurred. The proposed legislation repeals the authority of the Director of the Department of Corrections to identify and recommend to the Board prisoners for early parole consideration.

6. Budget Amendment Necessary: Yes, Item 429 and Item 402.

7. Fiscal Impact Estimates: Preliminary (see Item 8 below).

8. Fiscal Implications: According to the Parole Board (Board), the proposed legislation requires both: (1) a change in the reporting system currently populated on a monthly basis on the Parole Board's website; and that (2) during the investigation prior to the release of a prisoner, notification be provided to the Commonwealth's Attorneys and Victim Witness Directors responsible for the jurisdiction in which the prisoner's offense occurred.

The Board reports that the monthly report change includes several new categories that will need to be programmed and then entered into a Department of Corrections (DOC) custom database reporting system. These categories are: jurisdiction, offense, amount of time served, and basis for the granting of parole. According to DOC, the required programming change to the reporting system for purposes of producing the monthly report will require a minimum of 120 hours of work at a rate of \$160 per hour, for a total one-time cost of \$19,200.

Currently, the Board is required to notify a victim that he or she may submit evidence to the Board concerning the impact that the release of a prisoner will have on such victim. This

notification is to be sent to the last address provided to the Board by any victim of a crime for which the prisoner was incarcerated. The proposed legislation requires the Board to also send the notification to the Attorney for the Commonwealth and the Director of the Victim/witness program, if one exists, of the jurisdiction in which the offense occurred. Currently, victims are notified via a separate DOC database system. According to the Board, the database, will require re-programming to implement the legislation. The cost for programming this internal database is estimated to result in a one-time cost of approximately \$30,000 to the DOC.

According to the Board, currently, approximately 2,500 cases are considered for parole each year. Approximately 8 – 12 percent of offenders considered for parole are granted parole. The Board believes the monthly reporting requirement is likely to increase their workload requiring one-part time administrative position. The cost for this position will be \$39,023 annually.

The bill requires the Chairman of the Virginia Parole Board to certify under oath that the Board has complied with the provisions regarding notice to certain persons prior to the release or discharge of any prisoner. Under § 18.2-434 (what deemed perjury: punishment and penalty), a person to whom an oath is lawfully administered who willfully and falsely swears to any material matter may be prosecuted for perjury, a Class 5 felony. Currently, no criminal penalty is specified if the Parole Board fails to comply with the notice or reporting requirements. Because it expands the applicability of an existing felony offense, the VCSC states that the proposal may increase the state prison bed space needs of the Commonwealth.

The existing data do not provide sufficient detail to estimate the number of new felony convictions that would result from enactment of the proposal. Due to the lack of data, the VCSC 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 1289, 2020 Acts of Assembly, requires that a minimum impact of \$50,000 be assigned to the bill.

Any potential fiscal impact on local and regional jails or the Department of Juvenile Justice (DJJ) is indeterminate at this time.

The Commonwealth currently pays the localities \$4.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail and \$12.00 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 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

9. **Specific Agency or Political Subdivisions Affected:** Virginia Parole Board; Department of Corrections, state and local law-enforcement agencies, Courts, local jails, Commonwealth's Attorneys.

10. Technical Amendment Necessary: No.

11. Other Comments: None.