

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** HB857 ER

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

2. **Patron:** Hernandez

3. **Committee:** Passed both Houses

4. **Title:** Fines and costs; period of limitations on collection.

5. **Summary:** Under current law, when any statute or ordinance prescribes a monetary penalty unless it is otherwise expressly provided or would be inconsistent with the manifest intention of the General Assembly, it must be paid to the Commonwealth if prescribed by a statute and paid to the locality if prescribed by an ordinance and recoverable by warrant, presentment, indictment, or information. Penalties other than fines imposed and costs taxed in any such proceeding shall constitute a judgment and, if not paid at the time they are imposed, execution may issue thereon in the same manner as upon any other monetary judgment. No such proceeding of any nature, however, can be brought or had for the recovery of such a penalty or costs due the Commonwealth or any political subdivision thereof, unless within 60 years from the date of the offense or delinquency giving rise to imposition of such penalty if imposed by a circuit court or within 30 years if imposed by a general district court.

This bill changes the period of limitations for the collection of penalties and costs to within 10 years from the date of the judgment whether imposed by a circuit court or general district court. The bill provides that upon the expiration of the period of limitations, the fines imposed, and costs taxed are extinguished, there is no right to collect the debt, and the period of limitations cannot be extended.

The bill also provides that for any defendant sentenced to an active term of incarceration and ordered to pay any fine, cost, forfeiture, or penalty related to the charge that such defendant is incarcerated for, or any other charge for which such defendant was sentenced on the same day, the court shall enter such defendant into a deferred payment agreement, as defined in § 19.2-354.1, for such fines, costs, forfeitures, or penalties. The due date for such deferred payment agreement can be set no earlier than the defendant's scheduled release from incarceration on the charge for which such defendant received the longest period of active incarceration. Notwithstanding any other provisions of law, the period of limitations provided by § 19.2-341 for payment of such fines, costs, forfeitures, or penalties must start to run on the due date for such deferred payment agreement.

Current law provides that when a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution, or penalties, he must be required as a condition of participating in any work release, home/electronic incarceration, or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-

131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution, and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility must withhold ordered payments from any amounts due to such person. Amendments made by the Senate and accepted by the House require that amounts assessed but not yet due under a deferred payment agreement must also be withheld from such payments.

6. **Budget Amendment Necessary:** See Item 8 below.
7. **Fiscal Impact Estimates:** Final. See Item 8 below.
8. **Fiscal Implications:** According to the Office of the Executive Secretary of the Supreme Court (OES), accounting systems utilized to process the collection of fines and costs for criminal/traffic offenses do not retain information for the associated underlying violation beyond 120 days after the owed amount was paid in full. Therefore, there is no viable method for calculating the total amounts that have been received in payment for cases that fall within the parameters of the proposal.

The OES reports that this bill would require updates accounting systems to modify the timeframe before which a case is marked as being in default and to mark the due date according to the defendant's release date on the longest period of incarceration. The estimated one-time cost for the system enhancements is \$74,000. It is expected that this cost could be absorbed within current resources.

According to the Department of Corrections, this bill is not expected to have a fiscal impact on agency operations. The impact this bill may have on local and regional jails is not known at this time.

The impact this bill may have on revenues collected by the state and localities is not known at this time.

9. **Specific Agency or Political Subdivisions Affected:** Courts, general fund, local governments
10. **Technical Amendment Necessary:** No
11. **Other Comments:** None