

SUPREME COURT OF VIRGINIA

EXECUTIVE SECRETARY
KARL R. HADE

**ASSISTANT EXECUTIVE SECRETARY &
LEGAL COUNSEL**
EDWARD M. MACON

COURT IMPROVEMENT PROGRAM
SANDRA L. KARISON, DIRECTOR

EDUCATIONAL SERVICES
CAROLINE E. KIRKPATRICK, DIRECTOR

FISCAL SERVICES
BARRY M. WENZIG, DIRECTOR

HUMAN RESOURCES
RENÉE FLEMING MILLS, DIRECTOR



OFFICE OF THE EXECUTIVE SECRETARY
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219-2334
(804) 786-6455

JUDICIAL INFORMATION TECHNOLOGY
MICHAEL J. RIGGS, SR., DIRECTOR

JUDICIAL PLANNING
CYRIL W. MILLER, JR., DIRECTOR

JUDICIAL SERVICES
PAUL F. DELOSH, DIRECTOR

LEGAL RESEARCH
STEVEN L. DALLE MURA, DIRECTOR

LEGISLATIVE & PUBLIC RELATIONS
ALISA W. PADDEN, DIRECTOR

MAGISTRATE SERVICES
JONATHAN E. GREEN, DIRECTOR

November 29, 2021

The Honorable Janet D. Howell
Chair, Finance and Appropriations Committee
Senate of Virginia
P.O. Box 2608
Reston, Virginia 20195-0608

The Honorable Luke E. Torian
Chair, Appropriations Committee
Virginia House of Delegates
4222 Fortuna Plaza, Suite 659
Dumfries, VA 22025

The Honorable John S. Edwards
Chair, Virginia State Crime Commission
Senate of Virginia
P.O. Box 1179
Roanoke, VA 24006-1179

Dear Chairs Howell, Torian, and Edwards:

House Bill 2286 of the 2021 Session of the General Assembly would have required the court to appoint counsel for the defendant and conduct a bond hearing at the first appearance in a criminal case. Item 39, Paragraph R, of the 2021 Appropriation Act, Chapter 552, 2021 Reconvened Special Session I, required the Executive Secretary of the Supreme Court to review, in consultation with representatives of the Indigent Defense Commission, Virginia Community Criminal Justice Association, and other stakeholders identified by the Executive Secretary, the requirements of House Bill 2286 and produce (i) a plan for the implementation of the provisions of the bill, (ii) an estimate of the costs of implementing the provisions of the bill, and (iii) an estimate of potential off-setting savings resulting from implementation of the plan. By letter dated February 3, 2021, the Virginia State Crime Commission (VSCC) requested that the Committee on District Courts study and make recommendations on the same topic. Please find attached a report responsive to the 2021 Appropriation Act and the request from the Crime Commission.

The attached report, with appendices A-F is as presented to the Committee on District Courts at its meeting on October 20, 2021. The Committee on District Courts requested two additional appendices, which are attached to the report. Please note that Supplementary Appendix 1, the fiscal analysis submitted by the Compensation Board, was provided to OES after the discussion of this study by the Crime Commission at its November 15, 2021 meeting. It annualizes the potential savings.

In response to concerns raised at the Crime Commission meeting, OES has reviewed the analysis of the fiscal impact of providing court-appointed attorneys at the first appearance of defendants in criminal proceedings.

The largest potential impact to the Criminal Fund is the compensation of court-appointed attorneys for first appearance hearings in courts not served by public defender offices. Our initial estimate was that this could result in 15,284 additional appointments annually in circuit courts, 102,102 additional appointments in general district courts, and 10,879 additional appointments in juvenile and domestic relations district courts, producing a total of 128,265 additional appointments of private attorneys for the purpose of providing representation at first appearances. These numbers exclude courts currently served by a public defender office.

After additional review, we have identified four factors that could reduce the number of these appointments¹.

First, some defendants may have already retained counsel by the time of their first appearance, thus negating the need for a court-appointed attorney. Given the promptness with which these first appearances are to be held, it seems unlikely that a significant number of attorneys will have been privately retained, but it seems safe to assume that at least some defendants will have managed to retain counsel that quickly, somewhat reducing the number of necessary appointments. However, because the legislation required that attorneys be appointed regardless of the defendant's ability to pay, and no financial obligation would be required of the defendant, it may be likely that the majority of defendants would be disinclined to retain counsel for a bond hearing.

¹ Compensation of a court-appointed attorney is based upon the representation of a defendant on a single charge. Va. Code § 19.2-163 ("Such amount shall be allowed in any case wherein counsel conducts the defense of a single charge against the indigent through to its conclusion . . . ; thereafter, compensation for additional charges against the same accused also conducted by the same counsel shall be allowed on the basis of additional time expended as to such additional charges."). Since each warrant is limited to one charge and each charge is separately compensable, the fiscal impact is determined by the number of charges for which appointments are made, not the number of defendants represented. Supreme Court Rule 7C:3 (c). Thus, a case contains one charge and one defendant.

Second, some number of the detained defendants could be expected to meet the required bail conditions and be released prior to the first appearance.

Third, some percentage of defendants would have been charged on a summons, and thus would not be detained prior to the first appearance.

Finally, by statute, “[c]ounsel appointed by the court to represent an indigent defendant charged with repeated violations of the same section of the Code of Virginia, with each of such violations arising out of the same incident, occurrence, or transaction, shall be compensated in an amount not to exceed the fee prescribed for the defense of a single charge, if such offenses are tried as part of the same judicial proceeding.” Va. Code § 19.2-163. Application of this statute could result in fewer total appointments. However, repeated violations of the same Code section are charged on multiple warrants and court-appointed counsel may submit a request for compensation for each charge. Consistent anecdotal evidence from the courts strongly suggests that compensation of counsel for the defense of a single charge in a case involving multiple charges occurs exceedingly rarely.

In contrast, additional factors not addressed in our fiscal impact analysis have the potential to result in additional appointments. The number of charges estimated to be subject to a first appearance appointment in district courts included only initial criminal charges.² However, probation violations for which a *capias* is issued are also subject to first appearance hearings under Virginia Code §19.2-158.³

Between 2017 and 2019, an average of 12,307 charges in district court involved defendants who were potentially subject to detention for alleged violation of the conditions of probation. Of course, this total would be subject to reduction by the same sets of circumstances noted in reviewing the total number of appointments in anticipation of the first appearance for the initial offenses.

In addition, a factor not initially noted in our fiscal impact analysis was the ability of the court to award waiver funds to counsel for representation at the bond hearing. We are not able to predict the frequency or amount of any such funds that might be awarded for representation at a bond hearing, but any such funds awarded would represent an increase in the fiscal impact of this legislation.

² The circuit court numbers provided within the report include subsequent criminal charges subject to a first appearance appointment.

³ First appearance hearings under §19.2-158 “includ[e] charges for revocation of suspension of imposition or execution of sentence or probation.” Va. Code §19.2-157.

Counsel at First Appearance
Page Four
November 29, 2021

If you have any questions regarding this report, please do not hesitate to contact me.

With best wishes, I am

Very truly yours,

Handwritten signature of Karl R. Hade in black ink.

Karl R. Hade

KRH:jrs

cc: Ms. Kristen J. Howard, Executive Director, Virginia State Crime Commission
Division of Legislative Automated Systems

Report Pursuant to Item 39, Paragraph R, 2021 Appropriation Act Appointment of Counsel at First Appearance

I. Background

This report was prepared in response to language in the 2021 Appropriation Act that requires the Office of the Executive Secretary of the Supreme Court of Virginia (OES) to review, in consultation with stakeholders, the requirements of House Bill 2286 of the 2021 Session of the General Assembly. Item 39 (R) of the 2021 Appropriation Act (House Bill 1800, Chapter 552) (hereinafter, “Budget language”) reads as follows:

R. The Executive Secretary of the Supreme Court shall review, in consultation with representatives of the Indigent Defense Commission, Virginia Community Criminal Justice Association, and other stakeholders identified by the Executive Secretary, the requirements of House Bill 2286 of the 2021 Session of the General Assembly, as introduced, and produce (i) a plan for the implementation of the provisions of the bill, (ii) an estimate of the costs of implementing the provisions of the bill, and (iii) an estimate of potential off-setting savings resulting from implementation of the plan. The Executive Secretary shall provide a report detailing the plan for implementation, and associated costs and savings, to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than December 1, 2021.

House Bill 2286 would have made various changes to bail hearings conducted pursuant to Va. Code § 19.2-158, including: i) requiring the appointment of counsel for the defendant regardless of indigency status; ii) providing that representation by counsel may be limited solely to the bond hearing; iii) requiring that counsel for the defendant be provided with adequate time to confer with the defendant prior to any bail hearing; and iv) requiring that the bail hearing be held on the same day as the detained defendant’s first appearance in court.¹ The provisions of the introduced version of House Bill 2286 are provided in Appendix A.

OES filed a fiscal impact statement for House Bill 2286 detailing the possible impact on the Criminal Fund, which is the fund from which court-appointed private attorneys are paid for representing indigent defendants. The possible fiscal impact on the Criminal Fund arose from provisions in the bill requiring appointment of counsel for all defendants not free on bail who had not retained their own counsel. Additionally, the bill could be interpreted in a manner that

¹ For the purposes of this report, the term “first appearance” references the hearing held pursuant to Virginia Code § 19.2-158 for a person charged with an offense who is not free on bail, where the judge currently informs the defendant of the amount of bail and the right to counsel.

would allow court-appointed private attorneys to be paid for representing the defendant during the bond hearing in addition to the fee for representing the defendant for the remainder of the case. After discussion, the Transportation & Public Safety Subcommittee of the House Committee on Appropriations voted to lay the bill on the table, and the Budget language requesting review of the bill was included within the 2021 Appropriations Act.

Separately, the Virginia State Crime Commission sent a letter to the Chief Justice of the Supreme Court of Virginia requesting “that the Committee on District Courts study and make recommendations on procedures and practices for appointing an attorney and conducting a bond hearing when any detained defendant first appears before the court.” The letter requested that the Committee on District Courts conduct and complete the study and provide a report with recommendations to the Crime Commission by November 1, 2021. Staff at the Crime Commission subsequently agreed to a December 1, 2021 deadline that coincides with the Budget language.

II. Work Group Meetings

Chief Justice Lemons appointed a work group comprised of representatives of the organizations required by the Budget language as well as other stakeholders (Work Group). A list of Work Group members is attached as Appendix B. The Work Group held three meetings between July and September of 2021, during which members discussed i) the requirements of House Bill 2286; ii) current court procedures for first appearances and bond hearings; iii) issues related to the implementation of the bill; iv) the possible resources that would be necessary for implementation; and v) the estimated costs and savings that might exist if the bill were passed.

Prior to the first meeting of the Work Group, OES staff surveyed district courts regarding current court procedures for first appearances and the resources that would be necessary to implement House Bill 2286. The survey was distributed to the chief judges of every district, with a request that one survey be completed for each district court. The survey generated 105 responses, the results of which are provided in Appendix C. Eighty-two percent of respondents represented multi-jurisdictional districts, and over half of the respondents classified the jurisdiction served by the court as being rural (54%). Only ten percent of respondents indicated that no barriers or limitations would exist in holding the bond hearing on the same day as the defendant’s first appearance in court if appointment of counsel were required for all defendants. Appendix C, Question #13.

At the first meeting of the Work Group, two judges in jurisdictions not served by a public defender’s office detailed the procedures in their court/district for holding bond hearings on the same day as the first appearance. A juvenile and domestic relations district court judge detailed a process wherein the pre-trial officer and the attorney for the Commonwealth, both having been afforded the opportunity to review a completed pre-trial report, are present in court at the first appearance to discuss the appropriate bond, if any. A general district court judge outlined a bifurcated process where the first appearance is held in the morning, during which counsel is

appointed from the “duty attorneys” that are present; the newly-appointed counsel is afforded the opportunity to consult with the defendant; and a bond hearing is then held at the conclusion of the consultation. In this jurisdiction, “duty attorneys” are private attorneys who are scheduled to be in court each day during a specified timeframe for potential appointments to represent defendants. Work Group members discussed various considerations and concerns related to House Bill 2286, and the feasibility of applying either of the procedures described by the two judges on a broader scale.

After the first meeting, OES staff drafted and circulated a document to the Work Group that detailed the steps involved in implementing House Bill 2286, as well as the associated concerns and impediments that were identified by the Work Group during the first meeting. In addition, Work Group participants were asked to provide information about potential savings and costs related to implementation of the bill in advance of the second meeting.

During the second meeting of the Work Group attendees discussed and suggested revisions to the summary provided after the first meeting. Participants also discussed information related to potential savings and costs.

OES staff circulated a draft report to Work Group members prior to the third meeting. The third meeting of the Work Group was spent reviewing and discussing the draft report.

III. Current Law and Court Capabilities

Virginia Code § 19.2-158 currently requires that defendants who are not free on bail be brought before a judge to be informed of the amount of bail and their right to counsel. In practice, courts also inform the defendant of the charges for which they are being detained during this first appearance. The statute also currently requires that the court consider motions relating to bail, with the requirement that, absent good cause shown, a bond hearing be held as soon as practicable but no later than three days following a party making such motion. The defendant must be allowed a reasonable opportunity to employ counsel of his own choice, or, where appropriate, the court can find the defendant indigent and appoint counsel.

Some court procedures employed during the first appearance vary among jurisdictions. All courts advise the defendant of the amount of bail, inform the defendant of the charges pending, and appoint counsel (if indigent and not waived). Some courts also offer the defendant the opportunity to be heard on matters related to bond and conditions of release during the first appearance. Other courts require the defendant or their counsel to request a hearing by motion, either verbal or written.

Differences in court procedures during the first appearance are likely attributable to the underlying differences in resources and capabilities of each court. For example, courts in rural and urban jurisdictions face significantly different challenges in handling their dockets.

It is common in urban jurisdictions for court to be held daily, while in some rural jurisdictions court may only be held a couple of days per week, weekly, or even just twice a month. Though courts typically have procedures in place to ensure that the defendant can be heard remotely on days other than when a court is regularly scheduled, this creates greater logistical complexity than in jurisdictions where court is held each weekday.

Additionally, urban areas may have their own single-jurisdiction jail, while many rural jurisdictions are served by a regional jail. Regional jails face logistical concerns in transporting detained defendants to multiple courts or in securing defendants within the jail for remote hearings that are held by means of audio/visual (A/V) equipment. For example, a regional jail may serve seven jurisdictions, each of which has a circuit, general district, and juvenile and domestic relations district court. In such jurisdictions, the regional jail could be required to make defendants available for 21 separate courts. For this reason regional jails and the courts they serve often establish specific agreed-upon timeframes during which defendants can be present in each individual court physically, or will be available for remote hearings.

The availability of rooms within the courthouse also varies greatly across the Commonwealth. While some urban courts may have expansive facilities with multiple meeting rooms, some rural courts lack sufficient rooms to secure multiple defendants within the building between hearings or to facilitate confidential attorney-client consultations while court is ongoing. Many survey respondents and Work Group participants indicated that the courtroom must be cleared to allow for those confidential consultations to occur in their court. This practice hinders courts' ability to progress through the docket in a timely manner.

The technological capabilities of each court vary across the Commonwealth. Some courts are able to conduct remote hearings with all defendants who are physically present at the jail, while other courts have much more limited capability. Acquiring technology often involves the purchase of software and accompanying licenses, as well as staff who can provide technical support and ensure digital security. However, the cost of acquiring and operating technology can sometimes be offset by the efficiency and flexibility it offers the court.

Lastly, jurisdictions with a public defender office (PD office) are more readily able to accommodate the appointment of counsel at first appearance than those that rely on court-appointed private counsel. The PD office often ensures that an attorney is available in court for defendants who are determined to be indigent during the first appearance. In courts that are not served by a PD office, private attorneys must be appointed for those defendants who are indigent. Under current law, appointing an attorney who is not present at court during the first appearance is a workable option, as the statutory three-day period during which the bond hearing must be held only commences upon a motion being made by the defendant.

IV. House Bill 2286

House Bill 2286 included multiple changes to court procedures set forth in Virginia Code § 19.2-158. If implemented, courts would still be required to conduct a first appearance hearing for the defendant; however, bond hearings would be required to be held on the same day and counsel would be appointed for the defendant for purposes of the bond hearing. In situations where the defendant had not already retained counsel, the court would be required to appoint counsel regardless of the defendant's financial resources. The attorney's representation could be limited solely to the bond hearing; and the court would be authorized to make payments to the appointed attorney for such representation at the same rate and from the same fund as for court-appointed misdemeanor representation under Virginia Code § 19.2-163. An attorney appointed to represent a defendant during a bond hearing in a district court could be paid a fee of \$120, and could also receive additional compensation if the court were to waive the fee limitation. The fee paid to court-appointed counsel for representation at the first appearance would be in addition to the \$120 fee authorized to be paid to court-appointed counsel for representation through the conclusion of the case.

House Bill 2286 further included provisions requiring that counsel must be given access to bail information prior to the start of any proceeding, and must be provided with adequate time and space in which to confidentially consult with the defendant. The bond hearing would be required to take place during the same day as the first appearance, and the attorney for the Commonwealth would have a right to participate in the bond hearing. After the bond hearing, unless the matter were to be appealed pursuant to Va. Code § 19.2-124, if either party were to learn of new information material to the issue of bail or conditions of release, and the information was not previously presented in court, the party would be able to move the court to set or amend bail or the conditions of release.

V. Implementation Issues Related to House Bill 2286

Crime Victim and Witness Rights Act

The Crime Victim and Witness Rights Act includes provisions "to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law." Virginia Code § 19.1-11.01(A). The Act requires notification to the victim of court proceedings related to the defendant's case:

b. Victims shall receive advance notification when practicable from the attorney for the Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of any change in court dates in accordance with § 19.2-

265.01 if they have provided their names, current addresses and telephone numbers.

Virginia Code § 19.2-11.01(A)(3)(b).

The compressed timeframe between the defendant's arrest and the bond hearing set forth in House Bill 2286 would affect Commonwealth's attorneys' ability to notify victims prior to the bond hearing. Currently, Virginia Code § 19.2-158 requires that the bond hearing be held within three days of the defendant's motion requesting such a hearing, which could occur during the first appearance or shortly thereafter. The three days currently afforded by law allow a window of opportunity for Commonwealth's attorneys to fully notify victims of the upcoming bond hearing after it is requested by the defendant and scheduled by the court.

Under the procedures set forth in House Bill 2286, some victims would have less than 24 hours' notice that a bond hearing was scheduled for the defendant, which would potentially limit the ability of victims to attend bond hearings in such situations. However, the above notice provision states that victims shall receive advance notice "when practicable." Therefore, the Act anticipates that there will be instances where the victim cannot be notified of the court proceedings in advance. However, the number of cases where the victim cannot be notified in a timely manner is likely to increase if provisions like those within House Bill 2286 are implemented in the future.

Waiver of the Bond Hearing

The bill did not explicitly provide the defendant with the ability to waive the bond hearing. Currently, bond hearings are scheduled upon motion of the defendant. House Bill 2286 would have established bond hearings as a subsequent or concurrent hearing on the same days as the initial first appearance to be held without any affirmative action by the defendant. The majority of Work Group members believed that defendants should have the opportunity to waive the bond hearing as the defendant may wish to do for a variety of reasons, including the defendant's retained counsel being unavailable on that day or the defendant wishing to gather additional information prior to the bond hearing. For the foregoing reasons, legislators introducing future versions of the bill may want to consider making explicit the ability for defendants to waive the required same-day bond hearing.

Appointment of Counsel

In jurisdictions with a PD office, the challenges in implementing the requirements of House Bill 2286 would be significantly less than in those jurisdictions that are not served by a PD office. In many jurisdictions served by a PD office, procedures similar to the provisions set forth in House Bill 2286 are already in place for those defendants determined to be indigent. It is assumed that the PD office would represent all defendants within their jurisdiction during their bond hearings unless the defendant wishes to retain their own counsel or a conflict of interest is discovered. A representative from the Virginia Indigent Defense Commission indicated that PD offices can satisfy the requirements of House Bill 2286 in covered jurisdictions without additional resources. By contrast, in jurisdictions that are not served by a PD office, the

challenges in appointing an attorney for a bond hearing that occurs on the same day as the first appearance may be substantial, particularly for some smaller courts.

One of the greatest challenges in implementing the bill would be having private attorneys available in court during the first appearance for appointment. Some judges have indicated that the available pool of attorneys who may be appointed to cases in their jurisdiction is very limited. Nearly 47% of judges responding to the survey indicated that there may be an insufficient number of attorneys within the PD office or on the court-appointed list to take appointments. Appendix C, Question #13. This concern is especially significant in rural courts, which may have a minimal number of attorneys on the court-appointed list for that jurisdiction, and a substantial geographic distance to a neighboring jurisdiction. Some judges indicated that many attorneys serving a smaller jurisdiction travel to an adjacent larger jurisdiction each day seeking appointments. The result of this practice is that there are few, if any, private attorneys regularly present in smaller courts to be appointed for same-day hearings. To ensure the presence of attorneys, one option for some courts may be to establish a procedure where duty attorneys are present each morning during a specified timeframe for potential appointment to cases. This might still be difficult to do in some jurisdictions, such as in small jurisdictions where only a few attorneys are on the court-appointed list. Requiring duty attorneys in larger jurisdictions might require the duty attorney's presence in just that one court for the entire day, which might discourage attorneys from being willing to be on the court-appointed list for that jurisdiction.

The court will need to appoint an attorney in absentia in situations where no attorney is available to be appointed during the first appearance. The question then arises as to how the attorney will be notified of their appointment. Currently, some court clerks telephone attorneys to provide notice that an appointment has been made. In some courts the defendant is instructed to call the attorney directly, with no prior notification to the appointed attorney from the court clerk. If the bond hearing were required to be held on the same day as the first appearance the notice to the attorney would need to be provided expeditiously. The attorney would then need to be given access to bail information a reasonable time prior to the start of the bond hearing, conduct a conflict of interest check, consult with the defendant, and represent the defendant during the bond hearing all on the same day. An available attorney who was not present in court when appointed would have a very limited amount of time in which to prepare and travel to the court to represent the defendant in the bond hearing. Some courts may have difficulty finding attorneys to accept these appointments.

In addition, some cases will present a conflict of interest that will require one or more attorneys to decline representation of the defendant, even in those jurisdictions served by a PD office. In such instances, holding a bond hearing on the same day as the first appearance might be logistically impossible. Additionally, there is a question as to whether a proper conflicts check can be accomplished prior to the bond hearing during the short timeframe that House Bill 2286 provides.

Scope of Representation by Counsel

House Bill 2286 allowed for the attorney's representation to be limited to the first appearance and bond hearing, with a separate fee for such representation to be paid from the Criminal Fund. Logistically and financially, it might be beneficial if the attorney were to continue representing the client for the remainder of the case, barring other considerations, in cases where the defendant is determined to be indigent. This would create consistency in the representation of the defendant and only necessitate a single payment from the Criminal Fund. Otherwise, the bill might create an incentive for attorneys to seek release from representation after the bond hearing, which could then result in two separate payments from the Criminal Fund on one case, one just for the bond hearing and the other for the remainder of the case. This would result in additional cost to the Criminal Fund. Additionally, if court-appointed counsel were to withdraw from representation of an indigent client following the bond hearing, appointment of another attorney would be required. Though the bill does not explicitly state so, it is assumed that no appointment of counsel would be necessary for additional bond hearings that are subsequent to the initial bond hearing, and thus no separate attorney fee from the Criminal Fund would be required for representation during such subsequent bond hearings.

Courthouse/Jail Facilities

House Bill 2286 required that counsel, once appointed, was to be provided with "time and space" to consult with the defendant prior to the bond hearing. Such a requirement would present challenges for some courts, as many do not have a private room available for such consultations. Of the 105 respondents to the OES survey, less than half (49%) indicated that their court currently has sufficient physical space that would allow for the appointed counsel to privately consult in person with the detained defendant prior to the bond hearing. Appendix C, Question #11. Some judges on the Work Group, as well as those responding to the survey explained that, in the absence of available private space for attorney-client consultations, the courtroom is sometimes cleared following appointment of counsel to provide the defense attorney with the opportunity to confidentially consult with the defendant. Naturally, this practice brings the processing of the court's docket to a virtual standstill. Such practice, which may currently occur only for indigent defendants, may prove unworkable when applicable to nearly every detained defendant.

For this reason, courthouses may require facility upgrades to accommodate the confidential attorney-client consultations. The necessary upgrades, if any, will be a cost borne by the locality, and the extent of the upgrades will largely hinge upon whether the consultations are taking place remotely or in person. The cost for facilitating in-person consultations is expected to exceed that which would be incurred in facilitating remote meetings between the attorney and client. Costs for courthouse renovations to construct additional meeting rooms and a secure holding area, which may be necessary for in-person meetings, are likely greater than the costs associated with facilitating an attorney's ability to contact a jailed defendant telephonically from a secure location outside of the courthouse. However, if remote consultations are employed, regional jails may still incur costs for facility upgrades.

Regional jails in particular may face logistical difficulties in facilitating confidential attorney-client consultations since regional jails serve multiple courts that may have simultaneous first appearance hearings on the same day. Currently, courts have some flexibility in scheduling the bond hearing as the hearing is required to occur within three days of the motion for a bond hearing being made. However, if the bond hearing were required to be held on the same day as the first appearance the consultations would also have to occur on the same day as the attorney's appointment. This would likely result in the necessity for multiple consultations to be conducted simultaneously in regional jails, some of which may have limited secure telephones for use by detained individuals. In situations where regional jails have a sufficient number of telephone rooms, personnel would still be required to transport detained individuals to the rooms and ensure that they are secured. For this reason, it is expected that some regional jails will need to upgrade their facilities to accommodate the bill's changes or add personnel to handle the logistics of facilitating multiple consultations daily.

For remote bond hearings held using audio-visual equipment, additional personnel may be needed to securely transport defendants to and from the secure holding area for A/V consultations within the jail. Additionally, A/V equipment and licenses may need to be purchased to facilitate this method of court appearance, which may involve a cost to the locality. Some courts may need to establish two simultaneous A/V feeds for each hearing, with one feed connecting the defendant to the courtroom and the other connecting the defendant to their attorney. Such a more sophisticated system would allow for the defendant to mute the feed with the court to confidentially consult with their attorney during the bond hearing, similarly to how in-person defendants are able to consult with their attorney who is sitting in close proximity within the courtroom. Such equipment would need to be monitored and assessed by properly trained individuals to ensure security.

For in-person bond hearings, additional space and personnel may be needed in the courthouse to secure multiple detained individuals. If defendants are brought to the courthouse for the first appearance and remain in the building for the period of time during which counsel is appointed, potentially travels to the courthouse, reviews materials, consults with the defendant and prepares for the bond hearing, the defendant could be present in the courthouse for most of the day. When the bond hearing is held later in the day for a defendant who remains in the courthouse, questions arise as to how the defendant will be provided a meal, whether secure restroom facilities will be available for defendants, and whether other security concerns will arise from housing defendants in holding cells for extended periods of time.

Potential Changes to the Quality of the Bond Hearing

Some Work Group participants expressed concerns that shortening the timeframe between the first appearance and the bond hearing would negatively impact judges' ability to make informed decisions on defendants' bond. The Work Group also discussed whether attorneys for the Commonwealth would have sufficient information to make appropriate recommendations regarding bond. The representative for the Department of Criminal Justice Services (DCJS) informed the Work Group that most pretrial services offices currently provide reports for defendants they are able to interview, for localities that consider bond on the first day.

Additionally, the DCJS representative indicated that 117 localities within the Commonwealth will have an established Pretrial Services office by the end of 2021. Concerns about the quality of the bond hearing may be at least partially addressed by the increased availability of such services.

VI. Costs and Savings

Following the July meeting, Work Group participants representing agencies and associations that might have costs or savings were asked to provide estimates of their organization's possible costs and savings resulting from the implementation of House Bill 2286. Some of the work group participants provided information regarding potential costs and savings. The submitted information is provided as Appendices D through F.

Anticipated costs to the Criminal Fund are discussed below. This information supplements the fiscal impact analysis submitted to the Department of Planning and Budget by OES during the 2021 Regular Session of the General Assembly. Some stakeholders wondered whether the procedures of House Bill 2286 would result in a reduction in time spent by judges on bond hearings. To the extent any such reduction in time might result from the implementation of House Bill 2286, any such impact could not be determined from this study and could only be potentially determined when the next Weighted Caseload Study is conducted by the National Center for State Courts.

Fiscal Impact to the Criminal Fund for Appointment of Counsel

OES is charged with administering the Criminal Fund, from which court-appointed counsel are paid. As part of this responsibility, OES submits information on the potential fiscal impact of bills on the Criminal Fund to the Department of Planning and Budget. During the 2021 Regular Session, OES determined the requirements of House Bill 2286 would have resulted in the appointment of counsel for the vast majority of bail determination hearings for jailable offenses in localities that do not have a PD office². Since Virginia Code § 19.2-158(B) currently requires that the defendant “be brought before the judge of a court not of record, unless the circuit court issues process commanding the presence of the person, in which case the person shall be brought before the circuit court, on the first day on which such court sits after the person is charged...,” very few defendants have time to retain counsel prior to the first appearance hearing. This would also be true for any bond hearing held in accordance with the provisions of House Bill 2286. Under the provisions of House Bill 2286, appointment of counsel “shall be made irrespective of the defendant's financial resources,” which would result in payment from the Criminal Fund for all attorneys appointed pursuant to these provisions, regardless of whether the defendant was indigent. In addition, House Bill 2286 provided that this appointment “may be limited to the purposes of representing the defendant at a proceeding held pursuant to this

² Public defender offices have been, or are being, established in 54 localities throughout the Commonwealth of Virginia, and it is assumed that the public defenders in those jurisdictions would undertake the representation required by House Bill 2286. Any costs associated with representation by a public defender were not contemplated in OES's analysis.

section.” Accordingly, OES concluded that the compensation for the representation required by the bill could be in addition to the compensation due to court-appointed counsel for representation on the underlying charge. While this provision does not require separate representation for the underlying charge, it does allow for it. A locality’s implementation of these provisions may vary, and some may find it necessary or advantageous to have separate representations of the defendant, which would result in additional cost to the Criminal Fund.

Between 2017 and 2019, circuit courts in localities without a PD office processed an average of 13,604 felony cases and 1,680 jailable misdemeanor cases per year on direct indictment. The estimated yearly number of appointments in circuit courts that would have been required based on the provisions of this bill is **15,284**. During the same time, the corresponding general district courts (GDCs) in the localities processed an average of 41,751 felony cases and 241,402 misdemeanor cases yearly. Assuming that roughly 25% of the misdemeanor offenses in GDC were jailable (Class 1 or Class 2), approximately **102,102 appointments** would have been made every year in GDC. For juvenile and domestic relations district courts (JDR), the average number of adult felony cases processed yearly during this time was 6,597, and the average number of adult misdemeanor cases was 17,129. Again, assuming that roughly 25% of the misdemeanor offenses in JDR were jailable, approximately **10,879 appointments** would have been made yearly in JDR during the timeframe. For purposes of calculating the fiscal impact to the Criminal Fund, the total number of relevant appointments for all courts would be **128,265**.

House Bill 2286 provided that an appointed attorney would be paid at the same rate as for court-appointed misdemeanor representation pursuant to Virginia Code § 19.2-163. OES assumed for purposes of these calculations that attorneys would be paid by the Commonwealth for representation at bond hearings at the rate of \$120 per bond hearing. Using total appointments of 128,265 at the rate of \$120 per appointment, the potential annual fiscal impact on the Criminal Fund associated with implementing the requirements of House Bill 2286 would be **\$15,391,800**.³ This estimate assumes that for those defendants who are determined to be indigent, one attorney is appointed to represent the defendant for the bond hearing and another appointment is made to represent the defendant for the rest of the case. This impact to the Criminal Fund would occur if there are two appointments made in every case where an indigent defendant is charged with a jailable offense in a jurisdiction that is not served by a PD office. As OES has a fiduciary responsibility with respect to the Criminal Fund, for purposes of establishing the fiscal impact to the Criminal Fund, OES submitted to the Department of Planning and Budget the potential fiscal impact to the Criminal Fund should the bill have passed.

Some jurisdictions not served by a PD office currently hold hearings on the same day as the first appearance, and the attorney appointed for an indigent defendant for the bond hearing continues that representation to the completion of the case. Not only does House Bill 2286 not

³ The estimated fiscal impact to the Criminal Fund for House Bill 2286 that OES submitted to the Department of Planning and Budget during the 2021 Regular Session was based upon a total number of appointments of 139,002, which if compensated at the rate of \$120 per bond hearing was calculated to be \$16,680,240. Legislation was passed during the 2021 Special Session I that established a PD office for the County of Chesterfield. For purposes of presenting the calculations included in this report, the relevant appointments for the three courts in Chesterfield were excluded, resulting in the new relevant total appointments of 128,265.

require this, it specifically allows for the limitation of the representation to the bond hearing. The estimated fiscal impact to the Criminal Fund would be reduced if any future legislation included specific language providing that attorneys appointed to represent indigent defendants for the bond hearing would continue their representation through completion of the case without separate payment solely for the bond hearing. This would mean that, for those cases with court-appointed counsel for an indigent defendant, there would be no change to the total compensation as a result of this bill. If such language were added to any future bill, the estimated annual cost to the Criminal Fund would be \$7,849,817.⁴ Requiring the same attorney appointed to represent an indigent defendant at a bond hearing to continue the representation through completion of the case, without additional payment, would significantly reduce the potential cost of House Bill 2286 to the Criminal Fund. Such a policy choice, however, might discourage attorneys from being willing to serve as court-appointed counsel. That potential result would further complicate the courts' ability to implement the type of provisions included in House Bill 2286 in those jurisdictions without a PD office.

Although House Bill 2286 provided that attorneys appointed for bond hearings would be compensated at the same rate as for court-appointed representation for misdemeanors pursuant to Virginia Code § 19.2-163, consideration might be given to providing a different rate if an attorney provides representation only for a bond hearing. The work necessary for an attorney to represent a defendant during the bond hearing alone is not necessarily commensurate with that which is required to represent a defendant for the case in its entirety. On the other hand, a reduced rate of reimbursement for representation during the bond hearing, if too low, may not provide the adequate incentive necessary to attract attorneys to serve as appointed counsel during bond hearings.

House Bill 2286 also provided that counsel representing the defendant in a bond hearing would be eligible for waiver of the cap on compensation applicable to representation of the underlying charge. Award of the waiver would further increase the fiscal impact to the Criminal Fund. However, an estimate of this additional impact is not available due to the inability to predict the frequency with which such waivers might be granted. Should legislation on this subject be introduced in the future, consideration should be given as to whether the waiver on the cap for compensation for representation at the bond hearing should be eliminated if counsel is appointed solely for the bond hearing and not the case in its entirety.

Lastly, the above cost estimates do not include costs associated with appointing counsel for cases in jurisdictions with PD offices where the public defender is conflicted out of representing a defendant, as an estimate of the percentage of cases with a conflict of interest present cannot be accurately determined.

⁴ Available information at the completion of a case indicates that approximately 49% of cases involved defendants charged with jailable offenses who are represented by either a private attorney appointed as counsel or a public defender. Assuming that the remaining cases represent those where the defendant was not determined to be indigent, 51% of total appointments, or about 65,415 appointments, at the rate of \$120 would be the basis for the potential impact to the Criminal Fund.

Costs for Increased Workload for District Court Clerks

The provisions of House Bill 2286 would have increased the workload on general district court and juvenile and domestic relations district court clerks who would be tasked with processing the appointed attorneys' requests for payment. It is estimated that the tasks required of a deputy clerk to review and process a request for payment is 6 minutes. If this time were required for the 112,981 appointments previously referenced for the district courts, this would increase the statewide workload of district court clerks in a manner equivalent to that performed by 9.1 full time employees of a clerk's office. This is an annual increase in work equal to **\$601,828**. The district court clerks' offices currently do not have funding for the 176 positions that would need to be filled across the state to manage the current workload.

The above estimated amount for additional district court clerks does not include the added workload that may result if court clerks are tasked with scheduling attorneys to be available in court for appointment, or notifying attorneys that have been appointed in their absence. Such tasks, though time-consuming, are not readily quantifiable for the purposes of this review. The added workload associated with such tasks could be determined during a future time study assessing district court clerks' offices statewide.

Costs Related to Public Defender's Offices

Attorneys within PD offices would assume the responsibilities of representing defendants during bond hearings in jurisdictions that are served by such offices. The Virginia Indigent Defense Commission's representative on the Work Group provided information indicating that PD offices can assume these responsibilities without requiring additional resources. A letter provided by the representative from the Virginia Indigent Defense Commission is provided in Appendix D.

Costs Related to Commonwealth's Attorneys.

House Bill 2286 provided that Commonwealth's attorneys may participate in the bond hearings that would occur on the same day as the first appearance. The representative from the Virginia Association of Commonwealth's Attorneys informed the Work Group that more personnel would likely be necessary to implement the provisions of House Bill 2286; however, he indicated that an estimate of the additional resources that would be necessary could not be calculated during the timeframe established for this study. He further indicated that a comprehensive time study of Commonwealth's attorneys' offices is expected to be conducted by the National Center for State Courts (NCSC) in 2022, with the possibility that the resultant metrics could potentially be utilized in determining the changed workload associated with implementing any bill similar to House Bill 2286. The representative also provided a letter expressing concern that the requirements within House Bill 2286 would further add to the already-increased workload resulting from recently enacted legislation. The letter is attached as Appendix E.

Savings Related to Reduced Jail Time

Although the issue has previously been raised, it is uncertain whether any savings would result from the implementation of the requirements of House Bill 2286. Work Group participants discussed the potential for defendants to be released from detention earlier, which could potentially save money currently being spent in detaining defendants in jail between their first appearance and any bond hearing. Such savings would exist if one assumes that the terms established during a bond hearing conducted by a judge in which the defendant was represented by counsel would differ substantially, to the defendant's benefit, from the bail determination previously rendered by a magistrate.

The Virginia Compensation Board provided materials that assessed the amount that could potentially be saved annually if *all* defendants who are categorized as most likely to be affected by the bill were granted bail during the bond hearing before the judge, and fulfilled the bond requirements, thus resulting in their release. The complete assessment provided by the Compensation Board is available as Appendix F. If all such defendants were released from jail following their bond hearing in accordance with this bill, the estimated annual jail per diem savings statewide would be **\$273,620**.

VII. Considerations for any Potential Future Legislation

The Work Group identified the following considerations that should be addressed by policymakers if similar legislation to House Bill 2286 is introduced in the future:

- Consider providing the defendant with the explicit ability to waive the initial bond hearing.
- Consider requiring attorneys who are appointed to represent indigent defendants during the bond hearing to remain as counsel through completion of the case (absent circumstances requiring that counsel withdraw), and whether limiting compensation for such representation would have a negative effect on private attorneys' willingness to serve as court-appointed counsel.
- Consider the amount of the attorney fee to be paid to court-appointed counsel who represent the defendant solely for the bond hearing.
- Consider removing provisions allowing attorneys to request waiver of the fee limitation when representation is limited to the bond hearing.
- Consider including a provision clarifying that the appointment of counsel is not required for subsequent bond hearings if counsel appointed at first appearance does not continue to represent the defendant.

VIII. Summary

Virginia's trial courts have established varied court practices relating to the appointment of counsel for defendants in bond hearings, consistent with the flexibility provided in current law. Such flexibility allows courts, defense attorneys and attorneys for the Commonwealth to account for differences in facilities, availability of defense counsel and practices of local and regional jails. An individual court's ability to hold a bond hearing during the same day as the defendant's first appearance may depend upon the courthouse infrastructure, size of the local bar, presence of a PD office, and type of jail. There was a general consensus among the Work Group participants that a single statewide solution for implementation of the requirements of House Bill 2286 is not possible given the vast differences and unique challenges among the jurisdictions in Virginia.

Appendix A

House Bill 2286 of the 2021 Session of the General Assembly

2021 SESSION

INTRODUCED

INTRODUCED

HB2286

2/21 17:41

21101768D

1 HOUSE BILL NO. 2286
2 Offered January 15, 2021

3 A BILL to amend and reenact § 19.2-158 of the Code of Virginia, relating to court appearance of a
4 person not free on bail.
5

6 Patrons—Williams Graves, Scott and Levine
7 Referred to Committee for Courts of Justice
8

9 Be it enacted by the General Assembly of Virginia:
10 1. That § 19.2-158 of the Code of Virginia is amended and reenacted as follows:
11 § 19.2-158. When person not free on bail shall be informed of right to counsel and amount of
12 bail.
13 A. As used in this section, "bail information" means (i) the magistrate's bail determination checklist
14 prepared pursuant to subsection B of § 19.2-121 and (ii) any risk assessment instrument or interview
15 results prepared pursuant to § 19.2-152.4:3.
16 B. Every person charged with an offense described in § 19.2-157, who is not free on bail or
17 otherwise, shall be brought before the judge of a court not of record, unless the circuit court issues
18 process commanding the presence of the person, in which case the person shall be brought before the
19 circuit court, on the first day on which such court sits after the person is charged, at which time the
20 judge shall inform the accused of the amount of his bail and his right to counsel detained. If the court
21 not of record sits on a day prior to the scheduled sitting of the court which that issued process, the
22 person shall be brought before the court not of record. The judges of any judicial circuit, including the
23 judges of the districts contained in that circuit, may designate a judge of any court to conduct hearings
24 pursuant to this section for any person detained and required to appear before any court in that circuit.
25 C. Counsel shall be made available to the accused for any proceeding held pursuant to this section.
26 The accused may retain his own counsel and such counsel is permitted to make an appearance on
27 behalf of the accused. If the accused has not retained counsel, the court shall appoint counsel to
28 represent such accused during the proceedings held pursuant to this section. Such appointment shall be
29 made irrespective of the accused's financial resources and may be limited to the purposes of
30 representing the accused at a proceeding held pursuant to this section. All counsel shall be given access
31 to the accused and to bail information a reasonable time prior to the start of any proceeding.
32 D. For a hearing conducted pursuant to this section:
33 1. The court shall ensure that the accused is represented by counsel and may appoint counsel for the
34 accused, if applicable, as provided by § 19.2-159;
35 2. The court shall advise the accused of (i) the nature of the charge or charges against him, (ii) his
36 current bail, and (iii) his right to counsel;
37 3. Counsel for the accused shall be provided with adequate time and space in which counsel can
38 confidentially consult with the accused; and
39 4. The court shall also hear and consider motions by the person or Commonwealth relating to bail or
40 conditions of release pursuant to Article 1 (§ 19.2-119 et seq.) of Chapter 9 of this title. Absent good
41 cause shown, a hearing on bail or conditions of release shall be held as soon as practicable but in no
42 event later than three calendar days, excluding Saturdays, Sundays, and legal holidays, following the
43 making of such motion.
44 No hearing on the charges against the accused shall be had until the foregoing conditions have been
45 complied with, and the accused shall be allowed a reasonable opportunity to employ counsel of his own
46 choice, or, if appropriate, the statement of indigence provided for in § 19.2-159 may be executed.
47 The attorney for the Commonwealth may participate in any proceeding conducted pursuant to this
48 section.
49 E. After a hearing conducted pursuant to subsection B, unless such matter has been appealed
50 pursuant to § 19.2-124, if either party learns of new information material to the issue of bail or
51 conditions of release, which was not previously presented to the court, the party may move such court to
52 set or amend bail or the conditions of release. Such matters shall be heard as soon as practicable, but
53 no more than three days after the motion is filed.
54 F. The chief judge in each circuit shall create a plan, in writing, that establishes the means by which
55 the jurisdiction will meet the provisions described in this section. The plan shall be completed by
56 October 1, 2021, or at least 90 days before any change to an existing plan. In developing the plan, the
57 chief judge shall create a committee that may include an attorney for the Commonwealth or his
58 designee, a member of the defense bar, a magistrate from the judicial circuit, and a representative from

59 (i) a local pretrial services agency, (ii) an adult detention center, (iii) a juvenile detention center, (iv) a
60 circuit court clerk's office, (v) a general district court clerk's office, (vi) a juvenile and domestic
61 relations district court clerk's office that is located within the judicial circuit, (vii) a judge from a circuit
62 court, general district court, and juvenile and domestic relations district court located within the judicial
63 circuit, and (viii) any other person the chief judge deems proper to include.

64 Such plan shall include (a) the method of selecting qualified attorneys to provide representation at
65 the proceedings conducted pursuant to this section, including whether such representation will be
66 provided by a public defender or private appointed counsel, or a combination thereof; (b) the manner in
67 which the court will provide the counsel for the accused with adequate and confidential time and space
68 to meet and prepare for the proceeding; (c) the time and place of proceedings to be conducted under
69 this section; (d) a process to ensure that if an excessive number of proceedings should arise that such
70 proceedings may be handled in a prompt manner; (e) a protocol to ensure that the public defender and
71 other counsel for the accused receives adequate notice of the names of the persons appearing on the
72 docket, access to those persons, and bail information; and (f) a protocol to ensure payment to an
73 attorney appointed for the accused who is not a public defender.

74 The court is authorized to make payments to an appointed attorney at the same rate and from the
75 same funds as for court-appointed misdemeanor representation in accordance with § 19.2-163. The court
76 may also approve a waiver to the limits placed on such compensation if warranted.

77 All plans created in accordance with this subsection shall be made available to the public. A copy of
78 such plan and any subsequent revisions shall also be sent to the Executive Director of the Indigent
79 Defense Commission.

80 G. Failure to comply with this section is appealable to the next highest court. If a violation is found,
81 the court hearing such appeal may impose such relief as deemed appropriate, including modification of
82 conditions of release or immediate release without conditions.

83 2. That the provisions of this act shall become effective on January 1, 2022, except the provisions
84 of subsection F of § 19.2-158 of the Code of Virginia, as amended by this act, which shall become
85 effective in due course.

Appendix B

Work Group Members

The Budget language specified that representatives of the Indigent Defense Commission and Virginia Community Criminal Justice Association, along with “other stakeholder,” be consulted in reviewing House Bill 2286. In accordance with this provision, the following Work Group members were assembled:

- The Hon. Stephen C. Frucci, Judge, Virginia Beach Circuit Court, Work Group Chair
- The Hon. Christopher M. Billias, Judge, Lexington/Rockbridge General District Court
- Mr. Peter Boatner, Esq., Virginia Indigent Defense Commission
- The Hon. Duane “Gregory” Carr, Judge, Chesterfield Juvenile and Domestic Relations District Court
- Steven Clear, Virginia Association of Regional Jails
- Ms. Robyn de Socio, Compensation Board
- Mr. Thomas Fitzpatrick, Esq., Department of Criminal Justice Services
- The Hon. Diane P. Griffin, Judge, Portsmouth Juvenile and Domestic Relations District Court
- Ms. Amanda Griffith, Virginia Community Criminal Justice Association
- The Hon. Tonya Henderson-Stith, Judge, Hampton General District Court
- The Hon. David M. Hicks, Judge, Richmond General District Court
- The Hon. Antionette Irving, Sheriff, Virginia Sheriffs’ Association
- The Hon. Rick Kahl, Clerk, District Court Clerks’ Association
- The Hon. Colleen K. Killilea, Judge, Williamsburg/James City County General District Court
- The Hon. Lisa A. Mayne, Judge, Fairfax General District Court
- The Hon. Victor “Blake” McKinney, Washington General District Court
- Mr. Colin Stolle, Esq., Virginia Association of Commonwealth’s Attorneys
- Ms. Banci E. Tewolde, Department of Planning and Budget

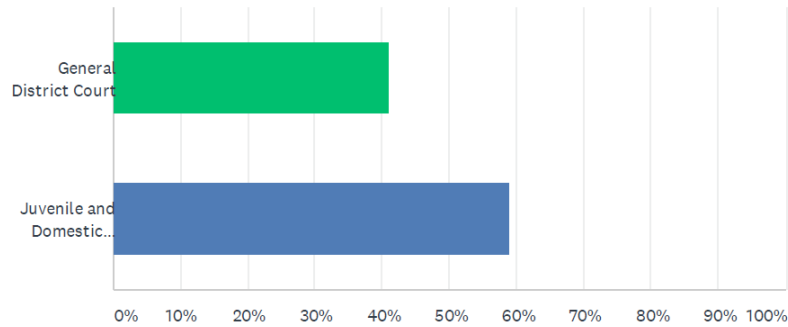
Guests: Colin L. Drabert, Esq., Virginia State Crime Commission
Kristen J. Howard, Esq., Virginia State Crime Commission

Appendix C

Survey Results

Q1 For which type of court are you filling out this survey?

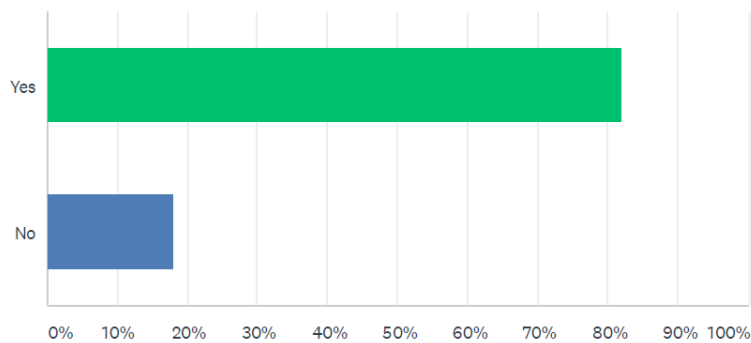
Answered: 105 Skipped: 0



ANSWER CHOICES	RESPONSES	
General District Court	40.95%	43
Juvenile and Domestic Relations District Court	59.05%	62
TOTAL		105

Q2 Is your court within a district with multiple jurisdictions?

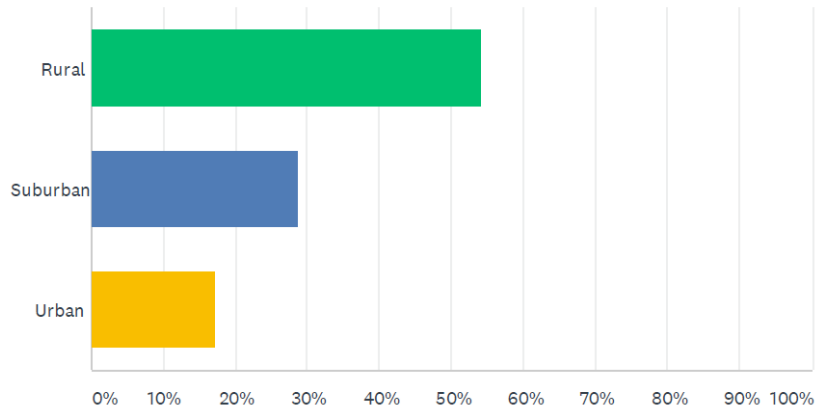
Answered: 105 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	81.90%	86
No	18.10%	19
TOTAL		105

Q3 How would you classify the jurisdiction that is served by your court?

Answered: 105 Skipped: 0



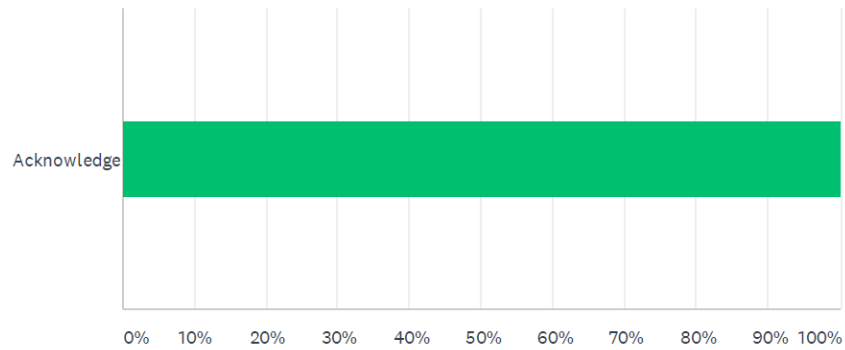
ANSWER CHOICES	RESPONSES	
Rural	54.29%	57
Suburban	28.57%	30
Urban	17.14%	18
TOTAL		105

Q4 Please enter the name of the locality served by your court:

Answered: 104 Skipped: 1

Q5 For the purposes of the survey, the term “FIRST APPEARANCE” references the Va. Code § 19.2-158 hearing that is held for a person charged with an offense who is not free on bail, where the judge informs the accused of the amount of bail and the right to counsel.

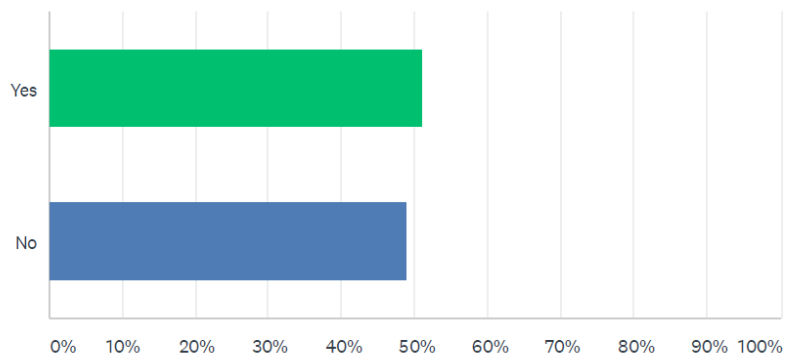
Answered: 104 Skipped: 1



ANSWER CHOICES	RESPONSES
Acknowledge	100.00% 104
TOTAL	104

Q6 Is your court served by a public defender's office?

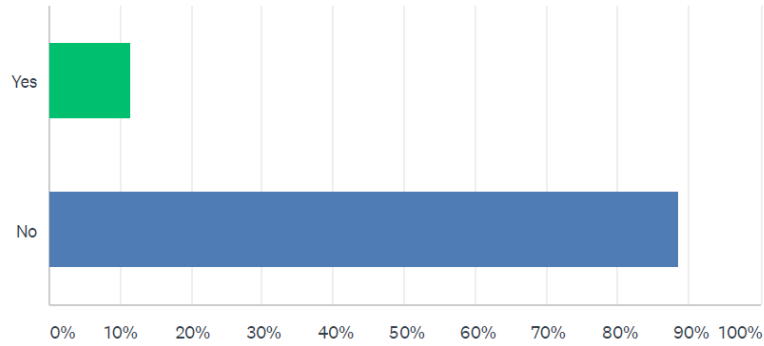
Answered: 102 Skipped: 3



ANSWER CHOICES	RESPONSES
Yes	50.98% 52
No	49.02% 50
TOTAL	102

Q7 Does the public defender currently meet with defendants prior to the first appearance?

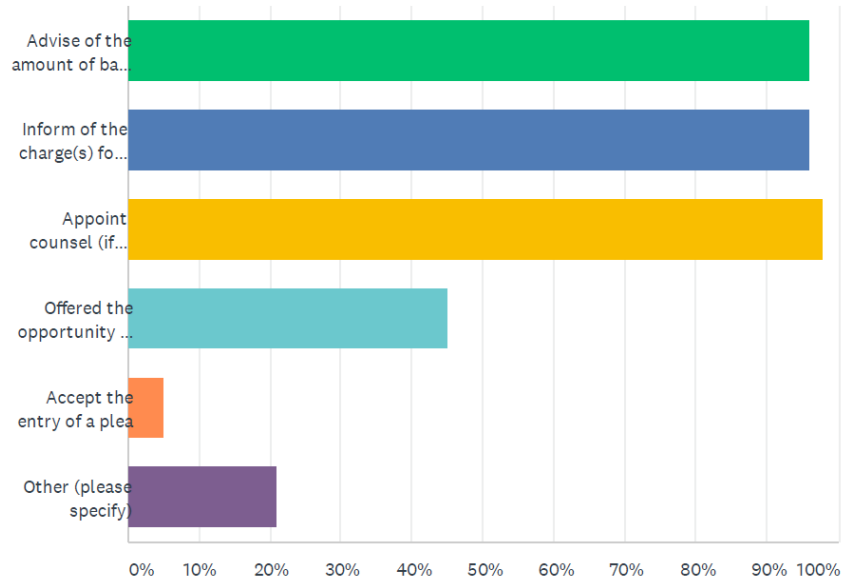
Answered: 52 Skipped: 53



ANSWER CHOICES	RESPONSES	
Yes	11.54%	6
No	88.46%	46
TOTAL		52

Q8 Please check all that currently occur within your court during the first appearance of a defendant who is not free on bail:

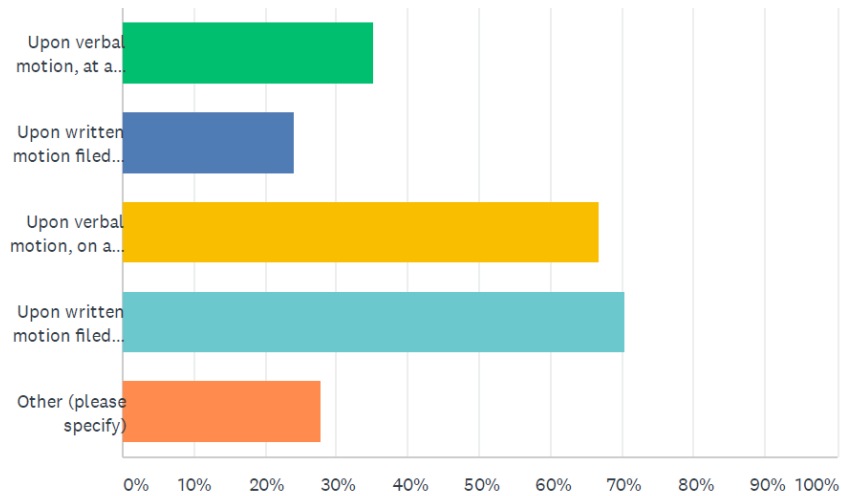
Answered: 100 Skipped: 5



ANSWER CHOICES	RESPONSES	
Advise of the amount of bail and right to counsel	96.00%	96
Inform of the charge(s) for which the defendant is detained	96.00%	96
Appoint counsel (if indigent and not waived)	98.00%	98
Offered the opportunity to be heard on matters related to bond and/or conditions of release	45.00%	45
Accept the entry of a plea	5.00%	5
Other (please specify)	21.00%	21
Total Respondents: 100		

Q9 As a standard practice, when does the court typically hear matters related to bond/conditions of release for a defendant who is not free on bail? (check all that apply)

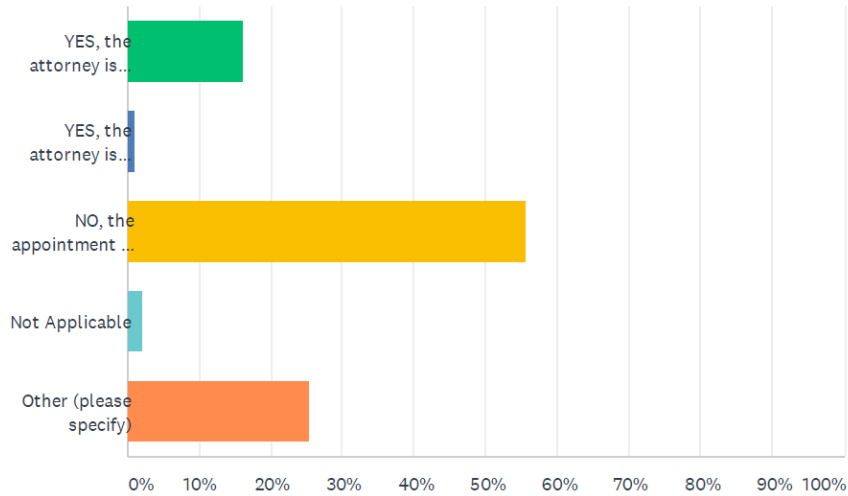
Answered: 54 Skipped: 51



ANSWER CHOICES	RESPONSES	
Upon verbal motion, at a later time on the same day as the first appearance	35.19%	19
Upon written motion filed by the defendant/defendant's counsel, at a later time on the same day as the first appearance	24.07%	13
Upon verbal motion, on a later date after the day of the first appearance	66.67%	36
Upon written motion filed by the defendant/defendant's counsel, on a later date after the day of the first appearance	70.37%	38
Other (please specify)	27.78%	15
Total Respondents: 54		

Q10 During the first appearance, if an attorney is appointed to represent a defendant who is not free on bail, is the attorney present?

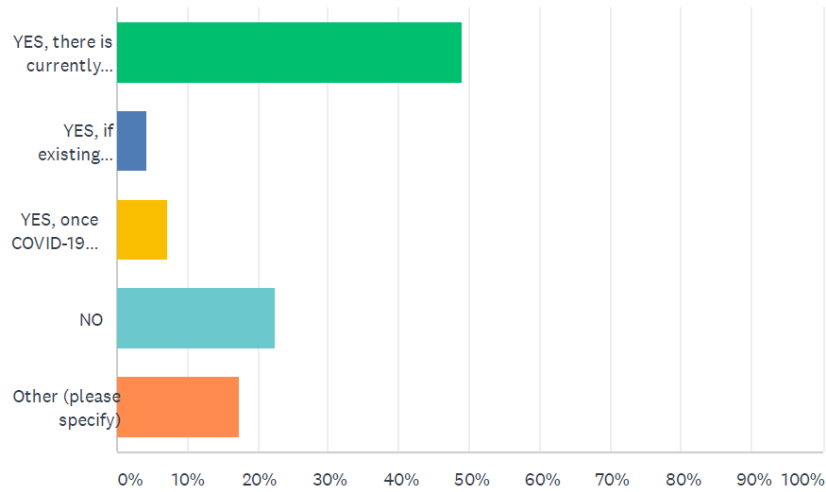
Answered: 99 Skipped: 6



ANSWER CHOICES	RESPONSES	
YES, the attorney is physically present in the courtroom	16.16%	16
YES, the attorney is virtually present by means of audio/video equipment	1.01%	1
NO, the appointment is made without the attorney present	55.56%	55
Not Applicable	2.02%	2
Other (please specify)	25.25%	25
TOTAL		99

Q11 If a bond hearing were statutorily required to occur on the same day as the first appearance, does your court have secure, physical space that would allow for the appointed counsel to privately consult in person with the detained defendant prior to such hearing?

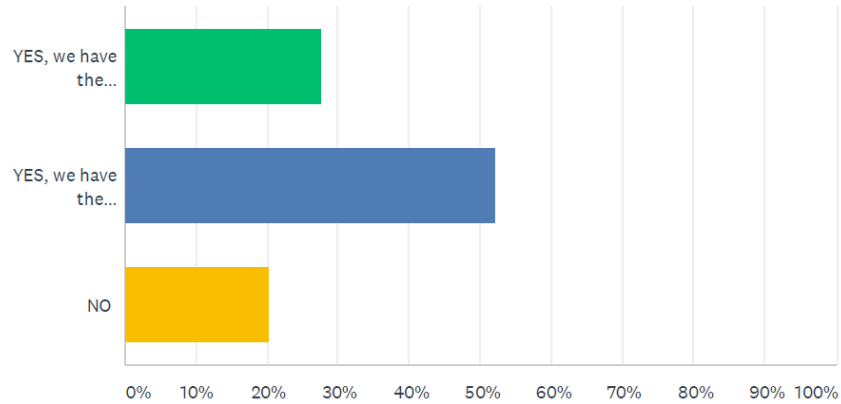
Answered: 98 Skipped: 7



ANSWER CHOICES	RESPONSES	
YES, there is currently sufficient space	48.98%	48
YES, if existing facilities were rearranged	4.08%	4
YES, once COVID-19 restrictions are lifted	7.14%	7
NO	22.45%	22
Other (please specify)	17.35%	17
TOTAL		98

Q12 If a bond hearing were statutorily required to occur on the same day as the first appearance, does your court have technological equipment/capabilities that would allow for the appointed counsel to consult with detained defendant virtually prior to such bond hearing?

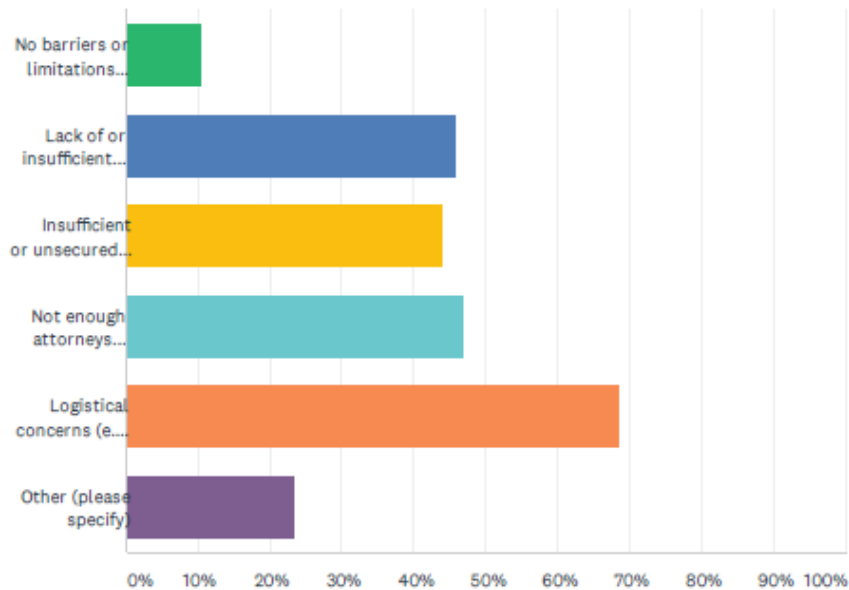
Answered: 94 Skipped: 11



ANSWER CHOICES	RESPONSES	
YES, we have the technological equipment/capabilities to allow for virtual attorney/client consultations	27.66%	26
YES, we have the technological equipment/capabilities, but not a private space where such consultations can take place	52.13%	49
NO	20.21%	19
TOTAL		94

Q13 If a bond hearing were statutorily required to occur the same day as the first appearance, and appointment of counsel were required for all defendants during the first appearance without first determining indigency, what barriers and/or limitations would your court face?

Answered: 98 Skipped: 7



ANSWER CHOICES	RESPONSES
No barriers or limitations would exist	10.20% 10
Lack of or insufficient technology to allow for attorney/client consultation (e.g. two-way electronic communication capabilities)	45.92% 45
Insufficient or unsecured space within courtroom facilities would not allow for in-person attorney/client consultation	43.88% 43
Not enough attorneys within public defender's office or on court-appointed list to take appointments	46.94% 46
Logistical concerns (e.g. appointment process, effect on docket, etc.)	68.37% 67
Other (please specify)	23.47% 23
Total Respondents: 98	

Appendix D

Letter from the Virginia Indigent Defense Commission

First Appearance Study Workgroup Data Requested

Agency: Virginia Indigent Defense Commission

Agency contact: Peter Boatner, Staunton Public Defender (pboatner@vadefenders.org)

Anticipated costs for Public Defenders Offices covering multiple jurisdictions

Virtually all public defender offices, including those covering multiple jurisdictions, report having enough assets currently to provide representation for bail review at first appearances if required. In fact, a significant majority report already having lawyers in court when first appearances are conducted.

Appendix E

Letter from the Virginia Association of Commonwealth's Attorneys

Officers

Colin D. Stolle, President
City of Virginia Beach

Nathan R. Green, President Elect
City of Williamsburg/James City County

Shannon L. Taylor, Vice President
Henrico County

Anton A. Bell, Secretary/Treasurer
City of Hampton

Jeffrey W. Haislip, Past President
Fluvanna County

At Large Directors

Donald S. Caldwell
City of Roanoke

Nancy G. Parr
City of Chesapeake

E. M. Wright, Jr.
Buckingham County

Board of Directors

John L. Mahoney
Caroline County

Eric L. Olsen
Stafford County

Beverly P. Leatherbury
Northampton County

Colin D. Stolle
City of Virginia Beach

Anton A. Bell
City of Hampton

Gregory D. Underwood
City of Norfolk

C. Phillips Ferguson
City of Suffolk

Susan O. Fiero
Prince George County

Tracy Q. Martin
Halifax County

R. Bryan Haskins
Pittsylvania County

Martha L. Gurst
City of Harrisonburg/Rockingham County

John R. H. Alexander
Botetourt County

Paul R. Walker
Calpeper County

R.E. McGuire
Louisa County

Bryan L. Porter
City of Alexandria

Parisa Delghasni-Tafli
City of Falls Church/Arlington County

Gerold D. Arrington
Buchanan County

Christian E. Rehak
City of Radford

Anne M. Williams
Clarke County

Marc H. Abrams
City of Winchester

Stephen Descano
Fairfax County

Administrator

Amanda M. Howie



Virginia Association of Commonwealth's Attorneys

September 27, 2021

Honorable Steven C. Frucci
Virginia Beach Circuit Court
2425 Nimmo Parkway
Virginia Beach, VA 23456

Re: First Appearance Workgroup

Dear Judge Frucci,

I first want to thank you for your leadership as the head of the First Appearance Workgroup. Our workgroup discussions have been insightful regarding all of the different practices currently in place around the Commonwealth.

In our discussions, at our last meeting, I stated that I had raised this issue at the August meeting of the Board for the Virginia Association of Commonwealth's Attorneys (VACA). As I previously stated, there seemed to be a consensus that additional personnel would be needed to implement this practice statewide. Since the last meeting of our workgroup, I decided to try and expand the input from a larger pool than just the VACA Board. I sent an email out to all 120 elected Commonwealth's Attorneys seeking their input on the matter. Of the responses I received, over sixty percent felt that they would need additional attorneys and/or staff to be able to implement bond hearings at a first appearance.

I think it is important to point out that this proposal cannot be viewed in a vacuum. Currently, under the staffing standards in use by the Compensation Board, there are 121 Assistant Commonwealth's Attorneys positions statewide that our offices are due but are not funded by the General Assembly. Those unfunded positions carry a current price tag of \$7,928,031. Yet, even though we are 121 positions shorthanded, with every passing year we are asked to do more and more. So, the question to

Office Hours By Appointment Only
919 E. Main Street, Suite 1260
Richmond, VA 23219
info@vaaprosecutors.org

Commonwealth's Attorneys is not as simple as can we do bond hearings at a defendant's first appearance. The question really is: Can we do bond hearings at a defendant's first appearance, as well as, handle increase workloads due to multiple recent changes in the criminal justice system, i.e. - changes to the discovery rules, changes in FOIA laws, changes in jury sentencing, and widespread implementation of Body Worn Cameras? The answer is yes, as long as, we are properly funded.

I would suggest to the Crime Commission that in light of all of the additional responsibilities and increased workloads that have been placed on our offices that a good starting point for funding of Commonwealth's Attorneys would be to fully fund our staffing standards. The additional 121 positions would go a long way to address the staffing needs, not only for bond hearings at a defendant's first appearance, but all of the other additional work we have been asked to take on.

Sincerely,



Colin D. Stolle, President
Virginia Association of Commonwealth's Attorneys

Appendix F

Fiscal Analysis Provided by the Compensation Board

First Appearance Workgroup-Potential Cost Savings of Per Diem Amounts (SCB)

The Compensation Board's Local Inmate Data System (LIDS) houses confinement and offense information on all inmates held in Virginia's local and regional jails. The Appropriation Act (Chapter 552, Item 69) provides funding to the Compensation Board for the payment of jail per diems, based upon data submitted in LIDS. All pretrial confinements with misdemeanor and/or felony offenses are paid at the Local Responsible per diem rate (\$4). Pretrial confinements for which the defendant is held solely on an ordinance violation are non-payable.

Jails receive a per diem payment for each inmate on the date of commitment, but not date of release. If an inmate is committed and bonded on the same day, the jail receives payment for one day. If an inmate is bonded out the day after their commitment to jail, the jail receives payment for one day.

LIDS does not contain information regarding the type of bond (magistrate or judicial) or any conditions thereof.

Jail Population and Per Diems

To assess the potential impact of HB2286 on jail population, pretrial inmates released to bond in CY2021 (Jan through Sept. 10th) were used as the sample population.

Compensation Board staff reviewed the average length of stay (ALS) between pretrial jail commitment and bond release.

Total Pretrial Confinements Released to Bond-2021 (through 9/10/2021)	Average Length of Stay (Days)
61,923	7.68

ALS by Most Serious Offense: 2021 All Pretrial Confinements (through 9/10)	Days
Average Length Of Stay Where MSO=Felony	13.42
Average Length Of Stay Where MSO=Misdemeanor	3.73
Average Length Of Stay Where MSO=Ordinance Violation	1.63

ALS by Most Serious Offense: 2021 Confinements Between 3 and 14 Days (through 9/10)	Days
Average Length Of Stay Where MSO=Felony	7.11
Average Length Of Stay Where MSO=Misdemeanor	6.15
Average Length Of Stay Where MSO=Ordinance Violation	5.50

Of these 61,923 confinements, 64% bonded out the same day or the next day. It could be reasonably assumed that many of these were magisterial bonds.

The current statutory requirements of 19.2-158, as well as feedback from jail staff who serve on the Compensation Board's (SCB) LIDS Advisory Committee, indicate generally that defendants who are denied bond by a magistrate are typically sent for a judicial bond hearing within a week of confinement to jail, but no longer than two weeks. Based upon this assumption, along with the knowledge of the per diem payment structure previously mentioned, SCB staff believes that potential per diem savings related to HB2286 are greatest in the pocket of confinements where bond release is between 3 to 14 days. With this information in mind, 24% of our sample population bonded out in greater than 2 days but no more than 14 days.

For inmates held longer than 14 days, there is an increased likelihood that there are additional factors contributing to the delay of bond. If so, the proposed legislation would likely not accelerate their release date (of the inmates held longer than 14 days, 47% were held on a violent or drug related felony).

Inmate days and per diem dollars were calculated for pretrial confinements lasting between 3 and 14 days as an estimate of *potential* savings.

Note: This estimate is High

Total Days for Confinements Between 3 and 14 days-2021 (through 9/10/2021)	Per Diem Amounts Paid for these Confinements	Average Length of Stay
68,405	\$273,620	6.74

Please note that the estimate provided above is **High**. There are variables that may affect a defendant's length of stay prior to bond that we are unable to account for.

These could include but are not limited to the following:

- Bond set by a magistrate or judge but a defendant was unable to post immediately
- Time spent waiting for subsequent bond hearing after attorney motion to reduce bond amount
- Initial denial and eventual reconsideration of bond
- Defendants committed to jail due to a bond revocation

Supplementary Appendix 1

UPDATED Fiscal Analysis Provided by the Compensation Board

First Appearance Workgroup-Potential Cost Savings of Per Diem Amounts (SCB)

The Compensation Board's Local Inmate Data System (LIDS) houses confinement and offense information on all inmates held in Virginia's local and regional jails. The Appropriation Act (Chapter 552, Item 69) provides funding to the Compensation Board for the payment of jail per diems, based upon data submitted in LIDS. All pretrial confinements with misdemeanor and/or felony offenses are paid at the Local Responsible per diem rate (\$4). Pretrial confinements for which the defendant is held solely on an ordinance violation are non-payable.

Jails receive a per diem payment for each inmate on the date of commitment, but not date of release. If an inmate is committed and bonded on the same day, the jail receives payment for one day. If an inmate is bonded out the day after their commitment to jail, the jail receives payment for one day.

LIDS does not contain information regarding the type of bond (magistrate or judicial) or any conditions thereof.

Jail Population and Per Diems

To assess the potential impact of HB2286 on jail population, pretrial inmates released to bond in CY2021 (Jan through Sept. 10th) were used as the sample population.

Compensation Board staff reviewed the average length of stay (ALS) between pretrial jail commitment and bond release.

Total Pretrial Confinements Released to Bond-2021 (through 9/10/2021)	Average Length of Stay (Days)
61,923	7.68

ALS by Most Serious Offense: 2021 All Pretrial Confinements (through 9/10)	Days
Average Length Of Stay Where MSO=Felony	13.42
Average Length Of Stay Where MSO=Misdemeanor	3.73
Average Length Of Stay Where MSO=Ordinance Violation	1.63

ALS by Most Serious Offense: 2021 Confinements Between 3 and 14 Days (through 9/10)	Days
Average Length Of Stay Where MSO=Felony	7.11
Average Length Of Stay Where MSO=Misdemeanor	6.15
Average Length Of Stay Where MSO=Ordinance Violation	5.50

Of these 61,923 confinements, 64% bonded out the same day or the next day. It could be reasonably assumed that many of these were magisterial bonds.

The current statutory requirements of 19.2-158, as well as feedback from jail staff who serve on the Compensation Board's (SCB) LIDS Advisory Committee, indicate generally that defendants who are denied bond by a magistrate are typically sent for a judicial bond hearing within a week of confinement to jail, but no longer than two weeks. Based upon this assumption, along with the knowledge of the per diem payment structure previously mentioned, SCB staff believes that potential per diem savings related to HB2286 are greatest in the pocket of confinements where bond release is between 3 to 14 days. With this information in mind, 24% of our sample population bonded out in greater than 2 days but no more than 14 days.

For inmates held longer than 14 days, there is an increased likelihood that there are additional factors contributing to the delay of bond. If so, the proposed legislation would likely not accelerate their release date (of the inmates held longer than 14 days, 47% were held on a violent or drug related felony).

Inmate days and per diem dollars were calculated for pretrial confinements lasting between 3 and 14 days as an estimate of *potential* savings.

Note: This estimate is High

Total Days for Confinements Between 3 and 14 days-2021 (through 9/10/2021)	Average Length of Stay
68,405	6.74

Projected Days for Confinements Between 3 and 14 days-2021 (Annualized)	Per Diem Amounts Paid for these Confinements
98,687	\$394,748

Please note that the estimate provided above is **High**. There are variables that may affect a defendant's length of stay prior to bond that we are unable to account for.

These could include but are not limited to the following:

- Bond set by a magistrate or judge but a defendant was unable to post immediately
- Time spent waiting for subsequent bond hearing after attorney motion to reduce bond amount
- Initial denial and eventual reconsideration of bond
- Defendants committed to jail due to a bond revocation

Additional information regarding cost savings related to total jail operating costs per inmate day has been requested, however, this would not represent an achievable cost savings to the Commonwealth.

The Compensation Board produces an annual Jail Cost Report, which represents an accounting of all expenses incurred and revenues accounted for in the operation of each local and regional jail in Virginia. Based upon all expenses incurred and numbers of inmates housed each year in all jails, the report identifies an average operating cost per inmate per day to operate a jail in Virginia. Discussion during a

meeting of the Committee on District Courts focused on the FY18 average operating cost per inmate day of \$87.20 as a potential savings amount for each inmate day reduced through an earlier release to bond. However, it is important to understand that this calculated cost per inmate per day is based upon all jail costs incurred for staffing, medical expenses, food services, transportation, inmate programming, and other direct costs to operate a jail such as maintenance, telephone charges and other general fixed costs, divided by the total count of inmate days in a year. The operating cost per inmate day as reported in the annual Jail Cost Report is a measure for comparison from year to year at the aggregate level, and a measure for comparison from jail to jail at the individual level, but is not an indicator of a daily cost incurred by the Commonwealth for each inmate.

Expenses incurred in the operation of a jail are funded through a variety of revenue sources, including funds from the Commonwealth, local governments and for some jails, the federal government. The jail cost report for FY20 indicates that Commonwealth revenues per inmate day represent approximately 34.69% of total jail expenditures statewide. However, these revenues per inmate day are largely comprised of amounts the Compensation Board pays for staff salaries of individuals that work in the jail (30.71%). Staffing provided by the Commonwealth/Compensation Board for the operation of a jail is based upon the design of the facility and its base operations, without regard for small fluctuations in inmate population, including not just corrections officers but kitchen staff, medical & treatment staff, and administrative support. While staffing standards identify a need for additional staff when a jail's population exceeds its rated operating capacity, those standards are not fully funded, so many jails are funded by the Commonwealth for fewer staff than needed based upon their inmate populations. The reduction of a very small proportion of inmates from jails statewide does not translate to a savings in staffing or basic operating expenses to keep any individual jail open, operating and properly staffed for security needs.

The Compensation Board's assessment identifies a "high" estimate of 68,405 days of inmate confinement that may be reduced by the proposal. Overall inmate days of confinement in the same period were 6,315,774 days, so those potentially impacted represent a maximum of 1% of total inmates, or approximately 264 inmates out of an average statewide daily population of 24,428 inmates per day in June, 2021. This is not a significant enough reduction in inmate population to support a corresponding decrease in staff funding provided by the Compensation Board, especially when considering that many jails are not fully funded by the Compensation Board for the staff they are due according to their inmate populations.

The operating cost per inmate day as reported in the annual Jail Cost Report is a measure for comparison, but is not an indicator of a daily cost incurred by the Commonwealth for each inmate. It is a means of examining costs at a particular level that can be compared from year to year, but it is not a basis for funding provided to any jail by the Commonwealth (or other funding sources), and consequently does not represent a potential savings for relatively small incremental changes in inmate populations.

However, the Compensation Board does make an additional direct payment to each jail to cover general jail operating expenses beyond the salary/staffing funding provided, based upon counts of inmates housed in each facility, and these payments do represent a direct cost to the Commonwealth per inmate day. The Compensation Board pays an inmate per diem amount of \$4 per day to support overall jail operating costs based upon the actual population of local responsible inmates awaiting trial and incarcerated in a jail in Virginia; a reduction of the inmate population would result in a direct cost savings to the Compensation Board/Commonwealth of \$4 per day, as indicated in the above analysis.

Supplementary Appendix 2

Audio/Visual Equipment

All district courts have access to two-way electronic video and audio communication equipment for the purpose of conducting remote hearings. Courts may use a Polycom video unit and/or Cisco Webex to conduct a hearing remotely.

Some courts share a Polycom video unit with another court. These are typically smaller courts that also share a courtroom. The “Notes” field in the following table indicates the courts that are sharing one Polycom unit with another court. Some courts may require additional equipment to accommodate an increase in remote hearings. The cost of a standard Polycom setup in a court is \$7,500. This price includes the baseline video unit (Polycom GS310) with a 4X camera, 50-inch monitor and a 5-year maintenance plan. The cost of an additional Polycom unit is higher for courts with courtroom sound integration. Those costs are typically borne by the locality.

District courts may add additional Webex users by request to the Office of the Executive Secretary (OES). Additional district court Webex users may be added at no additional cost to OES for licenses or equipment.

Two-Way Electronic Video and Audio Communication Equipment in District Courts

Court	Polycom	Webex	Notes
Accomack GDC	✓	✓	
Accomack JDR	✓	✓	
Albemarle GDC	✓	✓	
Albemarle/Charlottesville JDR	✓	✓	
Alexandria GDC	✓	✓	
Alexandria JDR	✓	✓	
Alleghany Combined Court	✓	✓	
Amelia Combined Court	✓	✓	
Amherst GDC	✓		

Court	Polycom	Webex	Notes
Amherst JDR	✓	✓	
Appomattox GDC	✓	✓	
Appomattox JDR	✓		
Arlington GDC	✓	✓	Not on Supreme Court of Virginia network which can sometimes result in interoperability issues, requiring additional technical support.
Arlington JDR	✓	✓	
Augusta GDC	✓		
Augusta JDR	✓		
Bath Combined Court	✓	✓	
Bedford GDC	✓		
Bedford JDR	✓	✓	
Bland Combined Court	✓	✓	
Botetourt GDC	✓	✓	
Botetourt JDR	✓	✓	
Bristol GDC	✓		
Bristol JDR	✓	✓	
Brunswick Combined Court	✓	✓	
Buchanan Combined Court	✓	✓	
Buckingham Combined Court	✓		
Buena Vista Combined Court	✓		
Campbell GDC	✓	✓	
Campbell JDR	✓	✓	
Caroline GDC	✓	✓	
Caroline JDR	✓	✓	
Carroll GDC	✓		
Carroll JDR	✓	✓	

Court	Polycom	Webex	Notes
Charles City Combined Court	✓	✓	
Charlotte GDC	✓		
Charlotte JDR	✓		
Charlottesville GDC	✓	✓	
Charlottesville JDR	✓		
Chesapeake GDC	✓	✓	
Chesapeake JDR	✓	✓	
Chesterfield GDC	✓	✓	
Chesterfield JDR	✓	✓	
Clarke GDC	✓		
Clarke JDR	✓		
Colonial Heights GDC	✓		
Colonial Heights JDR	✓	✓	
Craig Combined Court	✓	✓	
Culpeper GDC	✓	✓	
Culpeper JDR	✓	✓	
Cumberland Combined Court	✓		
Danville GDC	✓		
Danville JDR	✓		
Dickenson Combined Court	✓	✓	
Dinwiddie Combined Court	✓		
Emporia Combined Court	✓		
Essex Combined Court	✓		
Fairfax GDC	✓	✓	Not on Supreme Court of Virginia network which can sometimes result in interoperability issues, requiring additional technical support.

Court	Polycom	Webex	Notes
Fairfax JDR	✓		Not on Supreme Court of Virginia network which can sometimes result in interoperability issues, requiring additional technical support.
Falls Church Combined Court	✓	✓	
Fauquier GDC	✓	✓	
Fauquier JDR	✓	✓	
Floyd Combined Court	✓	✓	
Fluvanna Combined Court	✓		
Franklin City Combined Court	✓		
Franklin County GDC	✓		
Franklin County JDR	✓		
Frederick/Winchester GDC	✓	✓	
Frederick/Winchester JDR	✓	✓	
Fredericksburg GDC	✓	✓	
Fredericksburg JDR	✓		
Galax Combined Court	✓		
Giles GDC	✓	✓	
Giles JDR	✓	✓	
Gloucester GDC	✓		
Gloucester JDR	✓	✓	1 Webex license for Gloucester, Mathews, Middlesex JDR
Goochland Combined Court	✓	✓	
Grayson Combined Court	✓	✓	
Greene Combined Court	✓		
Greensville Combined Court	✓		
Halifax GDC	✓		
Halifax JDR	✓		
Hampton GDC	✓	✓	

Court	Polycom	Webex	Notes
Hampton JDR	✓		
Hanover GDC	✓		
Hanover JDR	✓		
Harrisonburg/Rockingham GDC	✓	✓	
Harrisonburg/Rockingham JDR	✓	✓	
Henrico GDC	✓	✓	
Henrico JDR	✓	✓	
Henry GDC	✓	✓	
Henry JDR	✓	✓	
Highland Combined Court	✓		
Hopewell Combined Court	✓		
Isle of Wight GDC	✓		
Isle of Wight JDR	✓		
King and Queen GDC	✓		
King and Queen JDR	✓		
King George Combined Court	✓		
King William GDC	✓		
King William JDR	✓	✓	
Lancaster GDC	✓	✓	Shares Polycom unit with Lancaster JDR
Lancaster JDR	✓		Shares Polycom unit with Lancaster GDC
Lee GDC	✓		
Lee JDR	✓		
Lexington/Rockbridge GDC	✓		
Lexington/Rockbridge JDR	✓		
Loudoun GDC	✓	✓	

Court	Polycom	Webex	Notes
Loudoun JDR	✓	✓	
Louisa GDC	✓	✓	
Louisa JDR	✓	✓	
Lunenburg Combined Court	✓		
Lynchburg GDC	✓	✓	
Lynchburg JDR	✓	✓	
Madison Combined Court	✓	✓	
Martinsville GDC	✓	✓	
Martinsville JDR	✓	✓	
Mathews GDC		✓	1 Webex license for Mathews/Middlesex GDC
Mathews JDR	✓		
Mecklenburg GDC	✓		
Mecklenburg JDR	✓		
Middlesex GDC	✓		1 Webex license for Mathews/Middlesex GDC
Middlesex JDR	✓	✓	
Montgomery GDC	✓	✓	
Montgomery JDR	✓		
Nelson GDC	✓	✓	
Nelson JDR	✓	✓	
New Kent GDC	✓		
New Kent JDR	✓	✓	
Newport News GDC	✓	✓	
Newport News JDR	✓	✓	
Norfolk GDC	✓	✓	
Norfolk JDR	✓	✓	

Court	Polycom	Webex	Notes
Northampton GDC	✓	✓	
Northampton JDR	✓	✓	
Northumberland GDC	✓		Shares Polycom unit with Northumberland JDR
Northumberland JDR	✓		Shares Polycom unit with Northumberland GDC
Nottoway Combined Court	✓		
Orange GDC	✓		
Orange JDR	✓	✓	
Page GDC	✓	✓	
Page JDR	✓	✓	
Patrick GDC	✓	✓	Shares Polycom unit with Patrick JDR
Patrick JDR	✓	✓	Shares Polycom unit with Patrick GDC
Petersburg GDC	✓		
Petersburg JDR	✓	✓	
Pittsylvania GDC	✓		
Pittsylvania JDR	✓	✓	
Portsmouth GDC	✓		
Portsmouth JDR	✓	✓	
Powhatan Combined Court	✓		
Prince Edward GDC	✓	✓	
Prince Edward JDR	✓	✓	
Prince George Combined Court	✓	✓	
Prince William GDC	✓	✓	
Prince William JDR	✓	✓	
Pulaski GDC	✓	✓	
Pulaski JDR	✓	✓	

Court	Polycom	Webex	Notes
Radford Combined Court	✓	✓	
Rappahannock Combined Court	✓		
Richmond City GDC	✓	✓	
Richmond City JDR	✓	✓	
Richmond County Combined Court	✓	✓	
Roanoke City GDC	✓	✓	
Roanoke City JDR	✓	✓	
Roanoke County GDC	✓	✓	
Roanoke County JDR	✓	✓	
Russell Combined Court	✓		
Salem Combined Court	✓		
Scott Combined Court	✓	✓	
Shenandoah GDC	✓		
Shenandoah JDR	✓	✓	
Smyth GDC	✓	✓	
Smyth JDR	✓	✓	
Southampton Combined Court	✓		
Spotsylvania GDC	✓	✓	
Spotsylvania JDR	✓	✓	
Stafford GDC	✓		
Stafford JDR	✓		
Staunton GDC	✓		
Staunton JDR	✓		
Suffolk GDC	✓	✓	
Suffolk JDR	✓		

Court	Polycom	Webex	Notes
Surry Combined Court	✓		
Sussex Combined Court	✓		
Tazewell GDC	✓		
Tazewell JDR	✓	✓	
Virginia Beach GDC	✓	✓	
Virginia Beach JDR	✓	✓	
Warren GDC	✓	✓	
Warren JDR	✓	✓	
Washington GDC	✓	✓	
Washington JDR	✓	✓	
Waynesboro GDC	✓		
Waynesboro JDR	✓	✓	
Westmoreland GDC	✓		
Westmoreland JDR	✓	✓	
Williamsburg/James City Co. GDC	✓	✓	
Williamsburg/James City Co. JDR	✓	✓	
Winchester/Frederick GDC	✓		
Winchester/Frederick JDR	✓		
Wise/Norton GDC	✓	✓	
Wise/Norton JDR	✓		
Wythe GDC	✓	✓	
Wythe JDR	✓	✓	
York GDC	✓		
York JDR	✓		

OES records reflect that the following local and regional jails currently have Polycom video units capable of connecting with district court equipment for the purpose of conducting a remote hearing. Local and regional jails may require additional equipment, at an additional cost, to facilitate an increase in the number of remote hearings required.

Accomack County Jail
Albemarle - Charlottesville Regional Jail
Alleghany Regional Jail
Blue Ridge Regional Jail Authority – Amherst County Adult Detention Center
Blue Ridge Regional Jail Authority – Bedford Adult Detention Center
Blue Ridge Regional Jail Authority – Campbell County Adult Detention Center
Blue Ridge Regional Jail Authority - Halifax County Adult Detention Center
Blue Ridge Regional Jail Authority – Lynchburg Adult Detention Center
Botetourt/Craig Counties Regional Jail
Central Virginia Regional Jail
Chesapeake Correctional Center
Chesterfield County Jail
Culpeper County Jail
Danville Adult Detention Center
Danville City Jail
Eastern Shore Regional Jail
Fairfax County Adult Detention Center
Fauquier County Adult Detention Center
Franklin County Jail
Hampton Community Corrections Center
Hampton Correctional Facility
Hampton Roads Regional Jail
Henrico County Regional Jail East
Henrico County Regional Jail West
Loudoun County Adult Detention Center
Martinsville City Jail
Meherrin River Regional Jail – Main Facility, Alberta
Meherrin River Regional Jail – Satellite Facility, Boynton
Middle Peninsula Regional Security Center
Middle River Regional Jail
Montgomery County Jail
Nelson County Jail
New River Valley Regional Jail
Newport News City Jail
Norfolk City Jail
Northern Neck Regional Jail
Northwestern Regional Adult Detention Center
Pamunkey Regional Jail
Piedmont Regional Jail
Pittsylvania County Jail
Prince William - Manassas Regional Adult Detention Center
Rappahannock Regional Jail

Rappahannock Shenandoah Warren Regional Jail
Richmond City Justice Center
Riverside Regional Jail
Roanoke City Jail
Roanoke County Jail
Rockbridge Regional Jail
Rockingham-Harrisonburg Regional Jail
Southside Regional Jail
Southwest Virginia Regional Jail Authority – Abingdon Facility
Southwest Virginia Regional Jail Authority – Duffield Facility
Southwest Virginia Regional Jail Authority – Haysi Facility
Southwest Virginia Regional Jail Authority – Tazewell Facility
Virginia Beach Correctional Center
Virginia Peninsula Regional Jail
Western Tidewater Regional Jail
Western Virginia Regional Jail
William G. Truesdale Adult Detention Center