



Report of the Subcommittee on
Public Safety

(Amendments to SB 850,
as Introduced)

Senate Finance Committee
Virginia General Assembly

February 8, 2009

REPORT OF THE SUBCOMMITTEE ON PUBLIC SAFETY
On Senate Bill 850, as Introduced
(February 8, 2009)

Mr. Chairman and Members of the Committee:

Your subcommittee has reviewed the provisions of Senate Bill 850, the budget bill as introduced, for the Office of Public Safety.

As we noted one year ago, these are challenging times, and we are very acutely aware of the difficulties our public safety agencies are facing under current economic conditions, with lower state revenues. This is a very sobering report, and I will choose my words very carefully. All of the members of this subcommittee recognize we are in the process of downsizing Virginia's public safety agencies. These agencies are straining at the limits of their resources, but they are absolutely committed to doing the very best job possible.

I want to emphasize from the start that every member of this subcommittee is satisfied that we have done the best job that we can, under the circumstances, in maintaining core services, while meeting our revenue reduction targets. And I want to especially thank the members of this subcommittee for spending the long hours necessary to review in depth the changes we are proposing, in order to arrive at a set of recommendations we can live with.

When I say downsizing, we already know the introduced budget reflects the closure of several adult correctional facilities, elimination of day reporting centers and treatment programs, and the reduction of aid to localities for police departments by seven percent. Our recommendations today contain no further reductions in aid for police departments. However, we recommend closing one state juvenile correctional center and a residential program for juveniles operated by the Department of Military Affairs. We also recommend postponing all Basic Schools for new State Troopers until the next biennium. This action essentially freezes sworn employment at the Department of State Police at the numbers currently employed.

We are no longer conducting business as usual. For this reason, in the budget before you, there are new provisions to permit the early release of non-violent, lower risk offenders, as defined under our sentencing guidelines system. We have very carefully restricted the definition of those offenders who would qualify for this program, to exclude those with prior violent records and drug dealers. And, based on Senate Bill 1196, there are also provisions for the court to suspend a portion of the prison sentence for offenders who need substance abuse treatment, and who complete an intensive treatment program in prison. These initiatives will help reduce the population pressures on the Department of Corrections.

Senator Stolle and I (and all of the other members of the subcommittee) have co-sponsored legislation (Senate Bill 1540, which was reported by this committee on Thursday) to expand the use of electronic incarceration for non-violent, lower-risk offenders. We recognize that much additional work is needed to refine this legislation. However, our goal is to provide a combination of a short jail sentence followed by electronic incarceration for at least an additional 500 prison-bound offenders next year and at least 1,600 in the next biennium.

The time has come to recognize and deal responsibly with the reality that we can no longer afford to incarcerate non-violent, lower-risk offenders who can safely be held accountable through alternative punishment options.

We acknowledge that our debt capacity is limited, and we no longer can assume unlimited expansion of state correctional facilities as well as local and regional jails. The committee has approved legislation (Senate Bill 1386) which eliminates, for the time being, the authority for approval and payment of the state share for new jail capital projects. We have included language in the budget to continue this authority for those projects which have already been approved and which have legitimately moved forward based on the expectation of state reimbursement.

However, we are proposing a joint legislative subcommittee to determine what the state's policy should be for the future with respect to the reimbursement of jail costs. We look forward to working with all of the key stakeholders to address this issue over the coming year.

There are no funds included in our report for any new programs. There are, however, some very limited additional funds for restoration of substance abuse and mental health treatment, a modest expansion of local community corrections and pre-trial release programs to relieve jail crowding, restoration of a privately-operated juvenile facility, continued second-year funding for the Internet Crimes Against Children task forces, National Guard tuition assistance, and restoration of a pilot project to develop the electronic veterans' claims system.

The good news in our report is that serious crime remains very low in Virginia, and our prison and jail populations are not growing, at least for now. And I don't want us to forget for one moment that a tremendous amount of good work is being done at the state and local level to achieve these good results, and to keep Virginians safe. The men and women in state and local corrections, law enforcement, and emergency services are doing yeoman's work, and they deserve our thanks for their dedication to public service.

I also want to express my appreciation to the Secretary of Public Safety, to all of the agencies within the Office of Public Safety, and to the staff of the Virginia Criminal Sentencing Commission and the Department of Planning and Budget, for their hard work and assistance to this subcommittee, during what we all recognize are challenging times.

Mr. Chairman, this completes the report of your subcommittee.

Respectfully Submitted,

The Honorable Janet D. Howell, Chairman

The Honorable Walter A. Stosch

The Honorable Kenneth W. Stolle
(Abstains from Item No. 388 #3s in Report)

The Honorable Frederick M. Quayle

The Honorable Henry L. Marsh, III

The Honorable L. Louise Lucas

The Honorable William Roscoe Reynolds

REPORT OF THE SUBCOMMITTEE ON PUBLIC SAFETY

(Recommended Amendments to SB 850, As Introduced. General Funds only.)

Amendment	FY 2009	FY 2010	Biennium
Secretary of Public Safety			
Department of Alcoholic Beverage Control			
Commonwealth's Attorneys' Services Council			
Department of Correctional Education			
DCE - Eliminate ten additional teachers	0	(730,000)	(730,000)
Department of Corrections			
DOC - Early Release (adjust language to restrict eligibility)	0	Language	0
DOC - Behavioral Incarceration (restrict eligibility; SB 1196)	0	Language	0
DOC - Electronic Incarceration Pilot Project (SB 1540)	0	Language	0
DOC - Jail capital project approval process (establish joint subcommittee)	0	Language	0
DOC - Authorization to market contract beds to other governmental entities	0	Language	0
DOC - Transfer Chatham Diversion Center to Pittsylvania County	0	Language	0
DOC - Additional budget reduction target	0	(5,500,000)	(5,500,000)
DOC - Restore substance abuse treatment funds in probation offices	0	400,000	400,000
DOC - SB 816: Assault and battery of fire marshal (30-19.1:4)	0	49,092	49,092
DOC - SB 951: Assault and battery of MWAA officer (30-19.1:4)	0	13,810	13,810
Department of Criminal Justice Services			
DCJS - Authorize Hanover CJ Training Academy (local funds only)	0	Language	0
DCJS - Reduce earmark for Alzheimer's Association by one-third	0	(25,000)	(25,000)
DCJS - Reduce earmark for immigration training by one-third	0	(50,000)	(50,000)
DCJS - Internet Crimes Against Children (ICAC) Task Forces (Language)	0	400,000	400,000
DCJS - Move ICAC FY 2009 Appropriation from Item 397 to Item 395	0	0	0
DCJS - Local community corrections and pre-trial release programs	0	(1,500,000)	(1,500,000)
Department of Emergency Management			
DEM - Replace Hazmat Funding	0	275,000	275,000
Department of Fire Programs			
Increase Reduction in Fire Programs Fund from 5% to 7% (Transfer \$440,000 NGF)		Part 3	Part 3

Amendment	FY 2009	FY 2010	Biennium
Department of Juvenile Justice			
DJJ - Close Hanover Juvenile Correctional Center	0	(1,800,000)	(1,800,000)
DJJ - Restore Virginia Wilderness Institute	0	1,000,000	1,000,000
DJJ - Restore mental health treatment positions (12 FTE)	0	800,000	800,000
DJJ - Reprogram unexpended VJCCCA Funds	0	Language	0
Department of Military Affairs			
DMA - Eliminate Commonwealth Challenge Program	0	(1,116,861)	(1,116,861)
DMA - Transfer Altavista armory to Campbell County	0	Language	0
Department of State Police			
DSP - Defer New State Trooper Basic Schools to FY 2011	0	(7,079,633)	(7,079,633)
DSP - NVA ICAC Task Force (unexpended first year funds)	(125,000)	0	(125,000)
DSP Sex Offender Registry (fee for bulk sale of information)	0	Language	0
Department of Veterans Services			
DVS - Wounded Warrior Program (delayed filling of positions)	(200,000)	0	(200,000)
DVS - Restore Electronic Claims System Pilot Project	50,000	0	50,000
Virginia Parole Board			
VCSC - Review of Parole Board data (See General Government Subcommittee)	0	Language	0
Sub-Total - Public Safety	(275,000)	(14,863,592)	(15,138,592)

Judicial Department

Virginia Criminal Sentencing
Commission

Language

Language:

Page 31, at the beginning of line 22, insert "A."

Page 31, following line 31, insert:

"B. The Virginia Criminal Sentencing Commission shall review the status of all offenders housed in state facilities operated by the Virginia Department of Corrections who are subject to consideration for parole. The purpose of the review is to determine the numbers of such offenders who have already, or will within the next six years, serve an amount of time in prison, which would be equal to or more than the amount of time for which they would have been sentenced for the same offense, and under the same circumstances, under the current sentencing guidelines system. The review shall include consideration of the numbers and types of older offenders who may be eligible for geriatric release. The Department of Corrections and the Virginia Parole Board shall provide all necessary information and assistance in carrying out this review. This review shall be presented to the Secretary of Public Safety, the Chairmen of the Senate and House Courts of Justice Committees, the Chairman of the Virginia State Crime Commission, and the Chairmen of the Senate Finance and House Appropriations Committees by September 1, 2009.

Explanation:

(This amendment directs the Virginia Criminal Sentencing Commission to review the extent to which inmates who are eligible for parole may have already served as much time as they would have served had they been sentenced for the same offense under the current sentencing guidelines.)

Public Safety

Department Of Corrections

Language

Language:

Page 426, following line 12, insert:

G.1. The Department of Corrections, in cooperation with the Virginia Sheriffs'

Association, the Virginia Association of Regional Jails, the Virginia Association of Commonwealth's Attorneys, and the Virginia Criminal Sentencing Commission, shall develop a pilot program in selected probation and parole districts, in cooperation with selected local and regional jails. The purpose of the pilot program is to expand the utilization of electronic incarceration programs for nonviolent, lower-risk offenders who have been sentenced by a court to a combination of jail and electronic incarceration, pursuant to Senate Bill 1540 of the 2009 Session of the General Assembly. For purposes of this program, nonviolent offenders are those defined as such, pursuant to Section 17.1-805 of the Code of Virginia for purposes of the felony sentencing guidelines, and lower-risk offenders are those assessed as such, pursuant to the risk assessment instrument promulgated by the Virginia Criminal Sentencing Commission.

2. It is the intent of the General Assembly that, consistent with public safety, at least an additional 500 nonviolent, lower-risk offenders should be placed on electronic incarceration during fiscal year 2010, and that a total of at least an additional 1,600 additional offenders should be placed on electronic incarceration in each year of the 2010-12 biennium. This pilot program may include provisions for charging fees, pursuant to Section 53.1-131.2 of the Code of Virginia, to cover all or part of the cost of the program, with due consideration for indigent offenders for whom the fee may be waived.

3. The Department shall form a task force to address the implementation of this pilot program. The task force shall provide a report with recommendations, including any suggested amendments to Senate Bill 1540 as it may deem appropriate, to the Secretary of Public Safety, the Chairmen of the Senate and House Courts of Justice Committees, and the Chairmen of the Senate Finance and House Appropriations Committees, on or before April 8, 2009. The Department of Planning and Budget and the Virginia Criminal Sentencing Commission shall provide such assistance to this task force as may be necessary."

Explanation:

(This amendment directs the Department of Corrections, in cooperation with Sheriffs, Regional Jail Superintendents, Commonwealth's Attorneys, and the Virginia Criminal Sentencing Commission, to develop a pilot program to expand electronic incarceration, pursuant to Senate Bill 1540 of the 2009 General Assembly.)

Public Safety

Department Of Corrections

Language

Language:

Page 426, strike lines 36-52 and insert:

"a. Meherrin River Regional Jail Authority, for a regional jail facility of not more than 400 beds, with new construction on not more than one site, and for which the Commonwealth's share of the total capital cost of the project shall not exceed \$50 million. The revised plans and cost estimates for this facility, pursuant to this paragraph, shall be subject to the approval of the Board of Corrections. The authority shall consider the costs and benefits of acquiring this facility using the process established under the Public Private Education and Infrastructure Act (PPEA), and shall submit a report on its analysis of this approach, along with its planning submissions, to the Board of Corrections. It is anticipated that the reimbursement of the Commonwealth's portion will not occur before July 1, 2012.

b. Patrick County, in order to proceed with planning for a replacement jail. The Commonwealth's estimated portion of this project is \$2,689,032, pursuant to Item 280 of this Act."

Page 427, strike lines 1-7.

Page 427, line 8, strike "h." and insert "c."

Page 427, line 20, strike "i." and insert "d."

Page 427, strike lines 27-44, and insert:

"5. The projects set forth in this Item shall be shall be subject to the provisions of Sections 53.1-80 through 53.1-82.3 of the Code of Virginia which were in effect as of December 31, 2008.

B. The Chairmen of the Senate Finance and House Appropriations Committees shall appoint a joint subcommittee to review the Commonwealth's policies with respect to the oversight, approval and financing of local and regional jail capital projects and operational expenses, with a view towards developing appropriate and fiscally sound recommendations for defining and meeting the Commonwealth's long-term obligations for local and regional jails and related programs. The Departments of Corrections, Criminal Justice Services, General Services, Planning and Budget and the Treasury, and the Compensation Board, shall provide such assistance as may be requested by the joint subcommittee for this review."

Page 428, strike lines 11-20.

Page 428, line 21, strike "E." and insert "D."

Page 428, line 43, strike "F." and insert "E."

Page 428, line 54, strike "G." and insert "F."

Explanation:

(This amendment establishes a legislative joint subcommittee to review the Commonwealth's long-term obligations with respect to the financing of local and regional jails. Senate Bill 1386 eliminates the statutory authority for approval by the Board of Corrections of the state share of local and regional jail construction projects, with certain exceptions for projects which will open by May 1, 2009. This amendment provides continuing authority for certain additional projects which have been approved but are still in the planning stages.)

Public Safety Subcommittee

Item 390 #4s

Public Safety

Department Of Corrections

Language

Language:

Page 433, following line 8, insert:

"K. The Department of Corrections is authorized to convey to the County of Pittsylvania, upon terms and conditions the Department deems proper, with the approval of the Governor and in a form approved by the Attorney General, a portion of the Camp 15 Work Camp facility near Chatham, consisting of 16 acres, more or less, to include the Diversion Center and outbuildings and the structure referred to as the Warden's Residence, pursuant to Senate Bill 1312 of the 2009 General Assembly."

Explanation:

(This amendment authorizes the Department of Corrections to transfer certain property at the Chatham Diversion Center to the County of Pittsylvania. This amendment is contingent upon final passage of Senate Bill 1312.)

Public Safety Subcommittee

Item 390 #7s

Public Safety

Department Of Corrections

Language

Language:

Page 432, lines 23-30 and insert:

"behavioral correction program, pursuant to Senate Bill 1196 of the 2009 General

Assembly, as enacted. Offenders eligible for such a program shall be those offenders (i) who have never been convicted of a violent felony as defined in Section 17.1-805 of the Code of Virginia and who are not currently serving a sentence for a felony violation of Sections 18.2-248 and 18.2-248.1 of the Code of Virginia, (ii) for whom the sentencing guidelines developed by the Virginia Criminal Sentencing Commission would recommend a sentence of three years or more in facilities operated by the Department of Corrections, and (iii) whom the court determines require treatment for drug or alcohol substance abuse."

Page 432, line 38, strike "18" and insert "24".

Explanation:

(This amendment restricts the definition of those offenders who would be eligible for the Behavioral Corrections Program, as proposed in the budget, as introduced, in order to exclude violent offenders, as defined for purposes of the sentencing guidelines system, and drug dealers. This program is contingent upon final adoption of Senate Bill 1196.)

Public Safety Subcommittee

Item 390 #8s

Public Safety

Department Of Corrections

Language

Language:

Page 431, following line 7, insert:

"4. The Department of Corrections shall determine whether it may be possible to contract to house additional out-of-state and/or federal inmates in space available within state correctional facilities. The department may, subject to the approval of the Governor, enter into such contracts, to the extent that sufficient bedspace may become available in state facilities for this purpose.

5. The Secretary of Finance shall provide the Department of Corrections anticipation loans in such amounts as may be needed to pay the initial expenses of operating such facilities, as may be recommended by the Department of Corrections to house contract prisoners. Such loans shall be based on the revenue anticipated from payments by other jurisdictions for housing their prisoners."

Explanation:

(This amendment directs the Department of Corrections to determine whether there may be additional opportunities to contract with other governmental entities to house prisoners from those jurisdictions. This amendment also authorizes the

Secretary of Finance to provide revenue anticipation loans for the department to begin housing contract prisoners in such facilities as may become available.)

Public Safety Subcommittee

Item 391 #1s

Public Safety

Department Of Corrections

Language

Language:

Page 434, strike lines 31-35 and insert:

"i. the inmate is currently serving a sentence for the commitment of any felony except those considered to be a violent offense pursuant to Section 17.1-805 of the Code of Virginia and the inmate is not currently serving a sentence for a felony conviction of Sections 18.2-248 or 18.2-248.1 of the Code of Virginia."

Explanation:

(This amendment restricts the definition of those offenders who would be eligible for the 90-day early release program proposed in the budget, as introduced, in order to exclude violent offenders, as defined for purposes of the sentencing guidelines system, and drug dealers.)

Public Safety Subcommittee

Item 395 #1s

Public Safety

Department Of Criminal Justice
Services

Language

Language:

Page 439, line 15, after "may approve" insert "(i)".

Page 439, line 20, after "Academy" insert:

"; and (ii) a new academy for Hanover County, to be supported with local funds, consistent with the agreement dated October 17, 2008, by and between the Board of Supervisors of Hanover County, the Sheriff of Hanover County, and the Rappahannock Regional Criminal Justice Academy."

Explanation:

(This amendment authorizes the Board of Criminal Justice Services to approve a new criminal justice training academy for Hanover County. It is the intention of the

General Assembly that no state funds be provided for the operating expenses for the new academy serving Hanover County.)

Public Safety Subcommittee

Item 395 #4s

Public Safety	FY 08-09	FY 09-10	
Department Of Criminal Justice Services	\$1,500,000	\$400,000	GF

Language:

Page 438, line 9, strike "\$82,364,599" and insert "\$83,864,599".

Page 438, line 10, strike "\$85,093,914" and insert "\$85,493,914".

Page 441, following line 12, insert:

"M.1. Out of the amounts appropriated for this item, \$1,500,000 the first year and \$400,000 the second year from the general fund shall be provided for the operations of the Southern Virginia Internet Crimes Against Children Task Force and the Northern Virginia Internet Crimes Against Children Task Force to expand the regional operations of these two task forces. Of the total amount provided, \$750,000 the first year and \$200,000 the second year shall be distributed to the Bedford County Sheriff's Office for the operation of the Southern Virginia Internet Crimes Against Children Task Force, and \$750,000 the first year and \$200,000 the second year shall be distributed to the Virginia State Police for the operation of the Northern Virginia Internet Crimes Against Children Task Force.

2. The Southern Virginia and Northern Virginia Internet Crimes Against Children Task Forces shall each complete a report on the actual expenditures and performance results achieved by the respective task forces during the first year. Copies of the task force reports shall be provided to the Secretary of Public Safety and the Chairmen of the Senate Finance and House Appropriations Committees prior to the distribution of funds for the second year."

Explanation:

(This amendment provides \$400,000 from the general fund the second year for the Southern Virginia and Northern Virginia Internet Crimes Against Children Task Forces. A companion amendment to Item 397 transfers the appropriation for the first year for this program to this Item. This is a technical adjustment which is necessary to appropriate these funds to the correct item.)

Public Safety Subcommittee

Item 397 #1s

Public Safety

Department Of Criminal Justice
Services

FY 08-09
(\$1,500,000)

FY 09-10
\$0 GF

Language:

Page 441, line 23, strike "\$198,795,927" and insert "\$197,295,927".

Page 442, strike lines 31-43.

Explanation:

(This amendment transfers the appropriation for the Internet Crimes Against Children Task Forces from this Item to Item 395. A companion amendment to Item 395 adds these funds. This is a technical adjustment which is necessary to appropriate these funds to the correct item.)

Public Safety Subcommittee

Item 411 #1g

Public Safety

Department Of Juvenile Justice

Language

Language:

Page 450, line 54, after "locality.", insert:

"The Director, Department of Planning and Budget, may increase the general fund appropriation for this item up to the amount of unobligated VJCCCA funds returned to the Department of Juvenile Justice."

Explanation:

(This amendment adds language authorizing the Director, Department of Planning and Budget, to increase the general fund appropriation up to the amount of unobligated Virginia Juvenile Community Crime Control Act (VJCCCA) grants returned by localities to the Department of Juvenile Justice. This would allow the department to reprogram these funds to local programs demonstrating the greatest effectiveness in juvenile crime prevention. The language presently in the budget inadvertently forces a one-year lag since the funding would need to be reflected in the department's year-end balances.)

Public Safety Subcommittee

Item 416 #1s

Public Safety

Department Of Military Affairs

Language

Language:

Page 454, at the beginning of line 10, insert "A."

Page 454, following line 12, insert:

"B. The Department of Military Affairs is authorized to convey to the County of Campbell, upon terms and conditions the Department deems proper, with the approval of the Governor and in a form approved by the Attorney General, the land and property of the Altavista armory, pursuant to Senate Bill 1310 of the 2009 General Assembly."

Explanation:

(This amendment authorizes the Department of Military Affairs to transfer certain property at the Altavista armory to the County of Campbell. This amendment is contingent upon final passage of Senate Bill 1310.)

Public Safety Subcommittee

Item 419 #1s

Public Safety

Department Of State Police

Language

Language:

Page 456, following line 52, insert:

"I. The Superintendent of State Police is authorized to and shall establish a policy and a reasonable fee to contract for the bulk transmission of public information from the Sex Offender Registry. Any fees collected shall be deposited into a special account to be used to offset the costs of administering the Registry."

Explanation:

(This amendment authorizes the Department of State Police to establish a fee to offset the costs of transmitting bulk information from the Sex Offender Registry.)

Public Safety Subcommittee

Item 420 #3s

Public Safety

Department Of State Police

FY 08-09
(\$125,000)

FY 09-10
\$0 GF

Language:

Page 456, line 55, strike "\$236,266,079" and insert "\$236,141,079".

Explanation:

(This amendment reduces the agency budget by \$125,000 the first year from the general fund to reflect lower-than-expected expenditures for the Northern Virginia Internet Crimes Against Children Task Force during fiscal year 2009. This budget adjustment is necessary because of the reduction in general fund revenues.)

Public Safety Subcommittee

Item 425 #2s

Public Safety

FY 08-09

FY 09-10

Department Of Veterans Services

(\$200,000)

\$0 GF

Language:

Page 461, line 22, strike "\$6,232,901" and insert "\$6,032,901".

Page 461, line 42, strike "2,422,078" and insert "2,222,078".

Explanation:

(This amendment reduces the Wounded Warrior program by \$200,000 the first year from the general fund. This amount reflects the projected savings based on the actual hire dates for new positions during the start-up period of the program during the first year. This budget adjustment is necessary because of the reduction in general fund revenues.)
