Racial and Ethnic Impact Statement
2026 General Assembly Session

Bill number: HB 127 (Substitute); Person not free on bail; court appearance

Review requested by: Chairman Hope; House Committee for Courts of Justice

Date: February 4, 2026

JLARC Staff Assessment of Potential for Disproportionate Impact

HB 127 would make various changes to provisions regarding bail hearings, the most notable of which would require courts to provide counsel at first appearance for all indigent defendants in jurisdictions with a public defender office.

JLARC staff estimate that HB 127 would have disproportionate racial impacts. Indigent defendants charged with a jailable offense in public defender jurisdictions are 2.5 times more likely to be Black relative to the proportion of Black persons in Virginia's general population. This analysis suggests that defendants receiving counsel at first appearance are more likely to be Black if HB 127 was enacted.

An explanation of the JLARC staff review is included on the pages that follow.

Bill summary

HB 127 would require courts in jurisdictions with public defender offices to provide indigent defendants with counsel at first appearance. Currently in Virginia, defendants who are detained in jail upon arrest have their "first appearance" on the next day that court is held. Among other actions at the first appearance, a judge may consider granting bail or changing the conditions of bail. Some courts appoint an attorney in time for the first appearance, but most only *begin* the appointment process at the first appearance and notify attorneys of their appointment afterwards. HB 127 would require jurisdictions that have a public defender office (as specified in §19.2-163.04) to appoint counsel to indigent defendants prior to the first appearance, so that the attorney is present to represent the defendant at that hearing.

HB 127 would make other various changes to provisions regarding bail hearings, including (1) requiring, when practicable, that counsel be provided with adequate time to confer with the accused prior to any bail hearing; (2) outlining compensation of counsel for the accused for representation provided at the first appearance; and (3) specifying individuals eligible to affirm a defendant's written financial statement of indigency. HB 127 would also require the chief judge in each circuit to create a plan for how the jurisdiction will meet the provisions of the bill by November 1, 2026.

Impact on aggregate criminal justice outcomes

HB 127 would increase the number of individuals who receive counsel at first appearance by requiring all courts in public defender jurisdictions to provide this representation to indigent defendants. Providing counsel at first appearance may improve the quality of legal representation defendants receive and help courts decide more quickly whether to release a defendant on bail. There are currently 29 public defender offices in Virginia covering 56 localities (~73 percent of the state population). Some public defender offices already provide counsel at first appearance, but this practice is inconsistent across the state. According to the Virginia Indigent Defense Commission, at least 15 public defender offices currently provide counsel at first appearance to at least some of their clients (e.g., provided for defendants in general district court, but not circuit court). By making it a required practice for all courts in public defender jurisdictions, HB 127 would increase the number of indigent defendants who receive counsel at first appearance.

Evidence of Differential Impacts on Racial or Ethnic Subgroups

To estimate whether there would be disproportionate racial impacts if HB 127 was enacted, JLARC staff compared the racial composition of Virginia's population to the racial composition of indigent defendants charged with jailable offenses in jurisdictions with a public defender office.

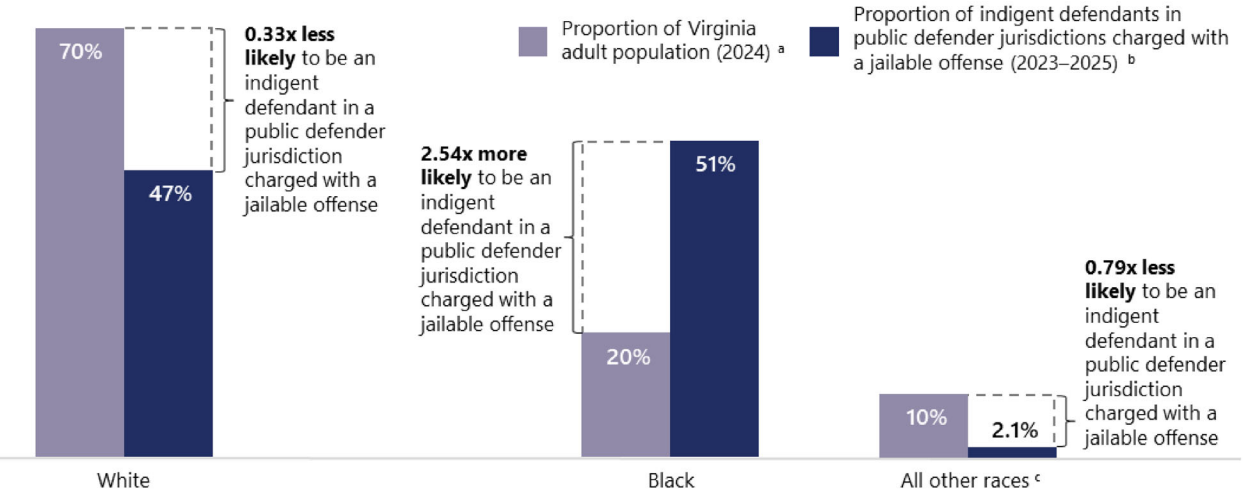
Black persons would be disproportionately affected by HB 127 because indigent defendants charged with jailable offenses in jurisdictions covered by public defenders are more likely to be Black, and are therefore more likely to receive counsel at first appearance if HB 127 was enacted.

HB 127 would disproportionately impact Black persons because a higher proportion of indigent defendants charged with jailable offenses in public defender jurisdictions are Black relative to the proportion of Black persons in Virginia's adult population

Defendants who would receive counsel at first appearance under HB 127 are more likely to be Black relative to their proportion of Virginia's adult population. Indigent defendants charged with jailable offenses in jurisdictions covered by public defender offices are 2.5 times more likely to be Black relative to the proportion of Black persons in Virginia's adult population. Black individuals accounted for 51.3 percent of indigent defendants charged with jailable offenses in public defender jurisdictions (2023–2025), but only 20.2 percent of Virginia adults (Figure 1). White individuals are less likely to receive counsel at first appearance under HB 127, as 46.5 percent of indigent defendants charged with jailable offenses in public defender jurisdictions from 2023–2025 were white, and 69.6 percent of Virginia adults are white.

FIGURE 1

Indigent defendants charged with a jailable offense in public defender jurisdictions are 2.5 times more likely to be Black relative to their proportion of Virginia's adult population



SOURCE: JLARC staff analysis of general district, juvenile and domestic relations, and circuit court data from the Office of the Executive Secretary of the Virginia Supreme Court.
NOTE: Jailable offenses include all felonies, Class 1 and Class 2 misdemeanors, and probation violations. [a] Population data from Virginia 2024 Census estimates of adult population. [b] OES data includes cases with file dates between December 17, 2022 and December 17, 2025. Analysis does not include Fairfax Circuit Court because of data limitations. [c] American Indian or Alaskan Native, Asian or Pacific Islander, Hispanic, and other/unknown race in general district, juvenile and domestic relations, and circuit court data.

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Date Issued: February 4, 2026