

Department of Planning and Budget 2015 Fiscal Impact Statement

1. Bill Number: SB 912

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

2. Patron: Wexton

3. Committee: Senate Courts of Justice

4. Title: Emergency custody orders and possession of firearms

5. Summary:

Under current order, a magistrate shall issue an emergency custody order for any person whom he or she believes has a mental illness that may result in the person harming himself or herself or others and who is in need of hospitalization or treatment.

The proposed legislation would require the magistrate, upon issuing an emergency custody order, to issue also a temporary firearms restriction order. The firearms restriction order would prohibit the purchase, possession, or transportation of any firearm by the person subject to the emergency custody order. The firearms restriction order would expire 90 days after its issuance.

Under the provisions of the legislation, it would be a Class 1 misdemeanor for anyone subject to a temporary firearms restriction order to purchase, possess, or transport any firearm while such order was in effect. The legislation provides a procedure for a person subject to such order to petition the court to restore his or her right to purchase, possess, or transport a firearm prior to the expiration of the temporary firearms restriction order.

6. Budget Amendment Necessary: Yes. Item 413.

7. Fiscal Impact Estimates: Preliminary. See Item 8 below.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2016	\$45,000	General
2017	\$0	
2018	\$0	
2019	\$0	
2020	\$0	
2021	\$0	

8. Fiscal Implications:

To implement the proposed legislation, the Department of State Police would need to re-program its automated system, which firearms dealers are required to check before selling any firearms, to include persons subject to a temporary firearms restriction order. The agency estimates that there would be one-time cost of \$45,000 to do this work.

The proposed legislation would create a new Class 1 misdemeanor related to firearms. Under current law, a third or subsequent violation of misdemeanor firearms laws constitutes a Class 6 felony. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. For someone convicted of a Class 6 felony, a judge has the option of sentencing him or her to up to one year in jail, or 1 to 5 years in prison. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, any increase in jail population would increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail and \$12.00 a day for each state responsible inmate. It also funds a considerable portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2014), the estimated total state support for local jails averaged \$30.54 per inmate, per day in FY 2013.

Pursuant to §30-19.1:4 of the Code of Virginia, the Virginia Criminal Sentencing Commission projects that there would be no impact on prison beds.

9. Specific Agency or Political Subdivisions Affected:

Department of State Police
Local and regional jails.

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 1/26/2015

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