

Department of Planning and Budget

2016 Fiscal Impact Statement

1. Bill Number: HB1386EH1

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|------------------------|---------------------------------------|-------------------------------------|---|
| House of Origin | <input type="checkbox"/> Introduced | <input type="checkbox"/> Substitute | <input checked="" type="checkbox"/> Engrossed |
| Second House | <input type="checkbox"/> In Committee | <input type="checkbox"/> Substitute | <input type="checkbox"/> Enrolled |

2. Patron: Lingamfelter

3. Committee: Passed House

4. Title: Firearms shows; voluntary background checks; penalties.

5. Summary: The proposal requires the Department of State Police to be available to perform background checks for non-dealer sales at gun shows if requested by a party involved in a transaction. The promoter of the firearms show is to provide the Department of State Police sufficient facilities to perform the background checks. The Department may charge a reasonable fee to perform the background checks. In order for the bill to become effective, the U.S. Department of Justice must approve the policies and procedures that the Department of State Police will use to implement the provisions of the bill.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications: Under the proposed legislation, any party to a firearm transaction at a firearms show would have the option to ask the Department of State Police (Department) to determine if a prospective purchaser or transferee is prohibited from possessing a firearm. This determination would be made in accordance with the procedures set out in § 18.2-308.2:2 of the Virginia Code. The Department may charge a reasonable fee for the determination.

The Department estimates that a total of three (3) Administrative Procedures Specialists may be necessary to provide adequate coverage at gun shows. The annual compensation for one position is estimated at \$76,864, and at \$75,264 the second year cost (the higher funding required in the first year includes one-time nonpersonnel costs).

The Governor's 2016-2018 introduced biennial budget (HB30/SB30) includes \$100,000 for one full-time position to support the Department's efforts related to background checks for the purchase or transfer of firearms at gun shows.

In addition, an estimated \$16,606 in traveling and lodging expenses is necessary to cover the cost of attending gun shows annually. However, if a significant number of additional voluntary background checks are required in the future as a result of other bills, it will be necessary to provide the Department with additional positions and appropriation to support those initiatives.

The proposal allows for the Department to charge a fee to perform the background checks, however, the revenue collected from such fees is not quantifiable.

This proposal could also result in an increase in the number of persons sentenced to jail or prison. Currently, under § 18.2-308.2:2, for someone convicted of a Class 5 felony (making false statement on a consent form required to purchase a firearm, or related federal firearm transaction), a judge has the option of sentencing the person to as much as one year in jail, or 1 to 10 years in prison.

For someone convicted of a Class 6 felony (willfully and intentionally selling, renting, trading, or transferring a firearm in violation of the provision), a judge has the option of sentencing the person to as much as one year in jail, or 1 to 5 years in prison. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, any increase in jail population will increase costs to the state.

The Commonwealth presently pays the localities \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail. It also funds a significant 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 2015), the estimated total state support for local jails averaged \$32.24 per inmate, per day in FY 2014.

According to the Virginia Criminal Sentencing Commission's fiscal impact statement for the proposed legislation, the impact of the legislation on state-responsible (prison) space cannot be determined. In such cases, Chapter 665 of the 2015 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

The Governor's 2016-2018 introduced biennial budget (HB30/SB30) includes a total of \$300,000 in one-time appropriation ("Woodrum") for bills that would result in an increase in the prison population.

The proposal is not expected to impact bed space needs at the Department of Juvenile Justice.

9. Specific Agency or Political Subdivisions Affected: Compensation Board, Department of Corrections, Department of Juvenile Justice, Department of State Police, and regional and local jails.

10. Technical Amendment Necessary: None.

11. Other Comments: None.