

# Department of Planning and Budget

## 2016 Fiscal Impact Statement

**1. Bill Number:** HB560

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

**2. Patron:**    Lingamfelter

**3. Committee:** Courts of Justice

**4. Title:**    Brandishing a firearm; intent; penalty.

**5. Summary:** The proposed legislation provides that a person pointing, holding, or brandishing a firearm or similar weapons must have the intent to induce fear in the mind of another or know or reasonably should know that his conduct would induce such fear in order to be convicted of the crime of brandishing. Under the proposal, Commonwealth's attorneys would be required to prove that the offender intended to induce or reasonably knew his conduct would induce fear in another. Currently, the perpetrator's intent is not an element of the offense.

**6. Budget Amendment Necessary:** No.

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

**8. Fiscal Implications:** Under current law, it is a Class 1 misdemeanor for a person to point, hold, or brandish any firearm, including those incapable of being fired, in such a way as to induce fear in another person. The proposed legislation could result in an increase in the jail population since Class 1 misdemeanor outcomes may result in sentences of up to 12 months in jail (and a fine up to \$2,500).

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 will 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. It also funds most 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. The impact for the Department of Juvenile Justice cannot be determined. The legislation has no material fiscal operational impact on Virginia State Police.

**9. Specific Agency or Political Subdivisions Affected:** Compensation Board, Commonwealth's Attorneys, Courts, Department of Juvenile Justice, Department of State Police, regional and local jails.

**10. Technical Amendment Necessary:** None.

**11. Other Comments:** None.

**Date:** 1/19/2016-HB560.doc (LAJ)