

Department of Planning and Budget 2018 Fiscal Impact Statement

1. **Bill Number:** HB1081

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

2. **Patron:** Yancey

3. **Committee:** Courts of Justice

4. **Title:** Stolen firearms; penalties.

5. **Summary:** Creates and expands penalties for crimes related to larceny of a firearm or use of a stolen firearm during the commission of a felony. The bill increases the mandatory minimum sentences for possession of a firearm during the commission of a felony, if such firearm was stolen, from three years to five years for a first offense and from five years to 10 years for a second or subsequent offense. The bill provides that it is (i) a Class 3 felony with a five-year mandatory minimum sentence to steal a firearm with the intent to sell or distribute and (ii) a Class 5 felony with a two-year mandatory minimum sentence to sell or distribute, attempt to sell or distribute, or possess with the intent to sell or distribute a stolen firearm. The also bill adds a one-year mandatory minimum sentence to the crime of receiving a stolen firearm, which is currently a Class 6 felony.

6. **Budget Amendment Necessary:** Yes. Item 394.

7. **Fiscal Impact Estimates:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2019	\$2,803,696	General
2020	\$0	
2021	\$0	
2022	\$0	
2023	\$0	
2024	\$0	
2025	\$0	

8. **Fiscal Implications:** The addition of new Class 3 felony and Class 5 felony penalties relating to stolen firearms has the potential to increase the number of offenders sentenced to prison. Currently, anyone convicted of a Class 3 felony is subject to a prison term of five to 20 years. This bill establishes a mandatory minimum sentence of five years' imprisonment for a conviction of stealing a firearm with intent to sell or distribute.

For someone convicted of a Class 5 felony, typically a judge has the option of sentencing him to up to one year in jail, or one to ten years in prison. However, this bill requires a

mandatory minimum sentence of two years' imprisonment for a conviction of selling or distributing, or possessing with the intent to sell or distribute a stolen firearm. Under this requirement, a judge would not have the option of sentencing an offender to jail, the offender would be sentenced to prison, which would increase costs for state-responsible inmates.

Expanding mandatory minimum sentences for convictions of purchasing, receiving or aiding in the concealment of a stolen firearm, which is currently punishable as a Class 6 felony, might also increase the number of persons sentenced to jail or prison. For anyone convicted of a Class 6 felony, typically a judge has the option of sentencing him to up to one year in jail, or one to five years in prison. This bill requires a mandatory minimum sentence of one year, which could either be served in jail or in prison.

Regarding the impact on those punished under the Class 6 felony mandatory minimum sentence, there is not enough information available to reliably estimate how many additional inmates would be sentenced to 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 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 2017), the estimated total state support for local jails averaged \$34.58 per inmate, per day in FY 2016.

Regarding the impact on state-responsible inmates, pursuant to §30-19.1:4 of the Code of Virginia, the Virginia Criminal Sentencing Commission estimates a fiscal impact of \$2,803,696. The amount is based on the projection that the legislation will result in the need for 83 additional prison beds by FY2024. The Virginia Sentencing Commission also estimates a decreased need of less than one local jail bed in the future because some offenders may be sentenced to prison instead of sentenced to a local jail. This would marginally decrease the amount of jail per diems and jail operating costs paid by the state (as noted above). However, the exact impact cannot be determined.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Local and Regional jails.

10. Technical Amendment Necessary: None

11. Other Comments: None