

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB198

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

2. Patron: Sullivan

3. Committee: Courts of Justice

4. Title: Firearms; removal from persons posing substantial risk; penalties.

5. Summary: Creates a procedure by which an attorney for the Commonwealth or a law-enforcement officer may apply to a circuit court judge for a warrant to remove firearms from a person who poses a substantial risk of injury to himself or others. If firearms are seized pursuant to such warrant, the bill requires a court hearing within 14 days from execution of the warrant to determine whether the firearms should be returned to the person from which it was taken or retained by law enforcement. Seized firearms may be retained by court order for up to 180 days or, with court approval, may be transferred to a third party chosen by the person from whom they were seized. Persons who have been served with a warrant to remove firearms until such warrant has been dissolved by a court or who are the subject of an order to retain firearms are prohibited from purchasing, possessing, or transporting a firearm; are disqualified from having a concealed handgun permit and are required to surrender the permit to the court. Violation of this provision is punishable as a Class 1 misdemeanor. Persons who have been served such a warrant are also prohibited from being employed by a licensed firearms dealer. The bill also requires the Department of State Police to maintain a computerized Firearm Order Registry to track warrants and orders served under this provision.

6. Budget Amendment Necessary: Yes. Items 391 and 419.

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

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2019	\$521,489	General
2020	\$0	
2021	\$0	
2022	\$0	
2023	\$0	
2024	\$0	
2025	\$0	

- 8. Fiscal Implications:** According to the Department of State Police (VSP), the proposed legislation would require the agency to create and maintain a Firearms Order Registry, which would be available to any law enforcement agency through the Virginia Criminal Information Network (VCIN). It is expected that the Registry would include subjects' identifying information including name, date of birth, sex, and race, date of issue, date and time of service, jurisdiction, date of entry, date of modification, and a miscellaneous field to capture additional information deemed necessary by the entering agency, and date of court dissolution. The VSP estimates the cost to create the registry database to be \$308,000. Additional systems-related costs associated with the proposal include \$50,000 to update VSP's current firearms system (VCheck) and \$100,000 to contract with a vendor to update to the VCIN.

The VSP has also indicated that it would need to revise the Virginia Firearms Transaction Record (SP-65) Form, which is completed by individuals at the time of firearms purchase. An initial package of the revised SP-65 form will need to be mailed to every firearms dealer registered with the State Police Firearms Transaction Center. The cost to print and distribute the new forms is estimated at \$13,489. The impact on local law enforcement agencies, Commonwealth's Attorneys, and the Courts cannot be determined at this time.

Under the proposal, it would be a Class 1 misdemeanor for any person who has been served with a warrant or subject to a removal order to purchase, possess, or transport a firearm while the order is in effect or until such time as the warrant has been dissolved by a court. If the person has a concealed handgun permit, he shall be prohibited from carrying any concealed firearm while the order is in effect or until such time as the warrant has been dissolved by a court. Anyone convicted of a Class 1 misdemeanor under the proposed legislation is subject to a sentence of up to 12 months in jail. 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 a large 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.

A third or subsequent Class 1 misdemeanor firearm violation is punishable as a Class 6 felony. The proposal also expands the applicability of several existing felony offenses. The proposal would amend the Virginia consent form to add a question regarding whether the applicant has been served with a warrant or is subject to an order. An individual making a materially false statement in response to this question would be subject to conviction for a Class 5 felony.

For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or one to five years in prison. Class 5 felony is punishable by one to ten years in prison.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 836 of the 2017 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected: Department of State Police, Department of Corrections, Commonwealth's Attorneys, Local and Regional jails, and Courts.

10. Technical Amendment Necessary: None

11. Other Comments: None