

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB405

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

2. Patron: Levine

3. Committee: Courts of Justice

4. Title: Purchase, possession, or transportation of firearms following convictions for certain crimes.

5. Summary: Prohibits a person who has been convicted of misdemeanor sexual battery or assault and battery where the victim is a family or household member from purchasing, possessing, or transporting a firearm. Violation of this provision is punishable as a Class 1 misdemeanor. The bill provides that anyone who sells, barter, gives or furnishes a firearm to a person who has been convicted of misdemeanor sexual battery or assault and battery when the victim is a family or household member is guilty of a Class 4 felony. The bill also requires updating the Department of State Police's criminal history record information form to inquire if the applicant has been convicted of a misdemeanor offense established by the proposed legislation.

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	\$63,489	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 revising 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 would 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 to be \$13,489.

Under the proposal, it would be a Class 1 misdemeanor for any person who has been convicted of misdemeanor sexual battery or assault and battery where the victim is a family or household member from purchasing, possessing, or transporting a firearm. 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.

Anyone convicted of selling, bartering, giving or furnishing a firearm to someone who has been convicted of a misdemeanor under the proposed legislation would be subject to conviction for a Class 4 felony. The proposal also expands the applicability of several existing felony offenses. A third or subsequent Class 1 misdemeanor firearm violation is punishable as a Class 6 felony. The proposal would amend the Virginia consent form to add a question regarding whether the applicant has been convicted of a misdemeanor offense under the proposed legislation. 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. A Class 5 felony is punishable by one to ten years in prison. A Class 4 felony is punishable by two 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, Local and Regional jails.

10. Technical Amendment Necessary: None

11. Other Comments: None