

## Department of Planning and Budget 2019 Fiscal Impact Statement

**1. Bill Number:** HB2504

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

**2. Patron:**    Murphy

**3. Committee:** Courts of Justice

**4. Title:**    Protective orders; possession of firearms; penalties.

**5. Summary:** The proposed legislation makes it a Class 6 felony for a person who is subject to a permanent protective order (i.e., a protective order with a maximum duration of two years) for subjecting another person to an act of violence, force, or threat to possess a firearm while the order is in effect. This penalty is equivalent to the existing penalty for possession of a firearm by a person subject to a permanent protective order for family abuse. The bill further provides that such person may continue to possess and transport a firearm for 24 hours after being served with the order for the purposes of selling or transferring the firearm to another person. The bill requires that any person who is prohibited from possessing a firearm because he is subject to a permanent protective order certify in writing to the clerk of the court that issued the order within 48 hours after being served with the order that any firearm in his possession has been sold or transferred. The bill provides that failure to file such certification is a Class 1 misdemeanor.

**6. Budget Amendment Necessary:** No. Item 391 of the introduced budget bill ( HB1700 and SB1100) includes an appropriation to support this legislation.

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

**8. Fiscal Implications:** By expanding the applicability of an existing felony, the proposal may increase the future state responsible (prison) bed space needs of the Commonwealth. The available data do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal; therefore, the magnitude of the impact on prison bed space needs cannot be determined at this time. Additionally, offenders convicted of the proposed Class 1 misdemeanor offense under § 18.2-308.1:4 of the Virginia Code could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more misdemeanor weapon convictions. In the six most recent fiscal years, however, no offender convicted of a felony under § 18.2-311.2 has received a state-responsible (prison) sentence. Therefore, this aspect of the proposal is not expected to have an impact on the prison bed space needs of the Commonwealth during the six-year window specified by § 30-19.1:4 for legislative impact statements.

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 2 of the 2018 Acts of Assembly, Special Session I requires that a minimum impact of \$50,000 be assigned to the bill. According to the Sentencing Commission, the impact on the Department of Juvenile Justice (DJJ) and local corrections is indeterminate.

Because the proposed legislation expands the applicability of an existing felony and creates a new Class 1 misdemeanor, the proposal may increase local-responsible (jail) bed space needs. The number of new convictions resulting from the proposal cannot be determined, therefore, the impact on jail beds cannot be estimated at this time.

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 2018), the estimated total state support for local jails averaged \$33.83 per inmate, per day in FY 2017.

**9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, Department of Juvenile Justice, Local correctional facilities.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.