

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB459

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

2. Patron: Sullivan

3. Committee: Public Safety

4. Title: Possession or transportation of firearms following convictions for certain misdemeanor crimes.

5. Summary: Prohibits a person who has been convicted of a misdemeanor violation of § 18.2-57(A) (simple assault or assault and battery in which the victim is intentionally selected because of his race, religious conviction, color, or national origin), or any substantially similar offense in another state or under federal law, from purchasing, possessing, or transporting a firearm for offenses that occur on or after July 1, 2020. The bill provides that, no earlier than two years from the date of conviction, such person may petition the circuit court for a permit to possess or carry a firearm. The court must conduct a hearing if requested by the petitioner or by the Commonwealth's attorney. The court may grant the petition and issue a permit in its discretion or for good cause shown. The clerk must certify and forward a copy of the order to the Central Criminal Records Exchange (CCRE) a copy of the order on a form provided by the CCRE.

6. Budget Amendment Necessary: Yes. Item 402.

7. Fiscal Impact Estimates: Preliminary. See below.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020			
2021	\$50,000	0	General
2022			
2023			
2024			
2025			
2026			

8. Fiscal Implications: This bill prohibits a person who has been convicted of hate crime-motivated assault from possessing a firearm for any offenses occurring on or after July 1, 2020. A violation is a Class 1 misdemeanor. The bill provides a process by which such persons may petition the circuit court for a permit to carry or possess a firearm two years after the date of conviction.

The Department of State Police (VSP) oversees the sale and transfer of firearms through licensed firearms dealers and some private sales, through its Firearms Transaction Center (FTC). According to VSP, this proposed legislation would require an amendment to the form that is required to be completed for all dealer sales (Form SP-65) to include a question about previous convictions for hate crime assault, and if the prospective purchaser's rights have been restored, pursuant to the provisions of this bill. The cost to print and mail these forms to all licensed firearms dealers in the Commonwealth is \$14,086. Funding to amend Form SP-65 was included in the Governor's introduced budget (HB30/SB30) Item 425.

Additionally, anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently 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 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

Pursuant to § 18.2-311.2, a third or subsequent conviction of a misdemeanor weapons violation is punishable as a Class 6 felony. For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to 12 months in jail, or one to five years in prison. Therefore, this proposal could result in an increase in the number of persons sentenced to prison. However, in the six most recent fiscal years required for analysis, no offenders received a state-responsible (prison) term for felony convictions under § 18.2-311.2. Therefore, this portion of the proposal is not expected to have an impact on prison bed space needs.

However, the proposed legislation does expand the applicability of several existing felony offenses, including: § 18.2-308.1:6 (selling, bartering, giving, or furnishing a firearm to a person who is prohibited from possessing it, a Class 4 felony); § 18.2-308.2:2(M) (purchasing a firearm with the intent to transfer it to an individual who is ineligible to purchase it, a Class 4 felony with a mandatory minimum term of one year, and a mandatory term of five years for the transfer of multiple firearms); § 18.2-308.2:2(N) (soliciting, employing, or assisting another to purchase or possess a firearm as someone who is ineligible to purchase one, a Class 4 felony with a mandatory minimum term of five years); and § 18.2-308.2:2(K) (making a materially false statement on a consent form that is required to purchase a firearm from a licensed dealer, a Class 5 felony). 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 854, 2019 Acts of Assembly, requires that a minimum impact of \$50,000 be assigned to the bill.

Any potential fiscal impact on the Department of Juvenile Justice (DJJ) is indeterminate at this time.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.