

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB78

House of Origin	<input checked="" type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Kory

3. Committee: Public Safety

4. Title: Firearms; purchase, possession, and transporting following certain convictions.

5. Summary: Prohibits any person from purchasing, possessing, or transporting any firearm who has been convicted of a violation of § 18.2-57.2 (assault and battery of a family or household member), or any substantially similar offense in the laws of another state or under Federal law. This section applies only to offenses that occurred on or after July 1, 2020. A violation is a Class 1 misdemeanor. Such persons are also prohibited from obtaining a concealed weapons permit.

The bill provides that such person may, no earlier than two years from the date of conviction, petition the circuit court of the jurisdiction in which he resides, or the circuit court of the county or city where he was last convicted of such offense, for a permit to possess or carry a firearm. A copy of the petition must be mailed or delivered to the attorney for the Commonwealth in that jurisdiction, who are entitled to respond and represent the Commonwealth's interests. The court must conduct a hearing if requested by either party. The court may grant such petition and issue a permit. The bill requires the clerk of the court to certify and forward a copy of such order to the Central Criminal Records Exchange (CCRE), on a form provided by the CCRE.

6. Budget Amendment Necessary: Yes, Item 402 (Department of Corrections). The Governor's introduced budget (HB30/SB30) provides funding in Item 425 for Virginia State Police to amend Form SP-65.

7. Fiscal Impact Estimates: Preliminary. See below.

8. Fiscal Implications: This bill prohibits any person from purchasing, possessing, or transporting a firearm if he has been convicted of misdemeanor assault and battery of a family or household member for offenses that occurred on or after July 1, 2020. It provides that such individuals who have met certain requirements may petition the circuit court for reinstatement of these rights.

According to the Department of State Police (VSP), the provisions of this bill would require a modification of the form that all prospective weapons purchasers are required to complete at the time of purchase (Form SP-65) to include a question regarding a conviction under § 18.2-57.2. The one-time cost to print and mail a copy of the new form to all firearms dealers

in the Commonwealth is \$14,086.47, according to VSP. The Governor's introduced budget for the 2020-2022 biennium includes this funding in the first year.

This bill may also have a fiscal impact on the courts. However, any potential fiscal impact is indeterminate at this time.

This proposed legislation makes it a Class 1 misdemeanor to purchase, possess, or transport a firearm for individuals convicted of assault and battery of a family or household member for incidents occurring on or after July 1, 2020. 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.

A third or subsequent misdemeanor conviction would be a Class 6 felony, pursuant to § 18.2-311.2. In the six most recent fiscal years required for analysis, however, no offenders convicted of a Class 6 felony under § 18.2-311.2 received a state-responsible (prison) sentence. However, this bill does expand the applicability of existing felonies, including: § 18.2-308.2:1 (selling, bartering, giving, or furnishing a firearm to a person who is prohibited from possessing one, a Class 4 felony); § 18.2-308.2:2(M) (purchasing a firearm with the intent to transfer it to a person who is prohibited from possessing it, a Class 4 felony with a mandatory minimum term of one year for the transfer of one weapon and a mandatory minimum term of five years for the transfer of multiple weapons); § 18.2-308.2:2(N) (soliciting, employing, or assisting any person in the purchase of a firearm by a person who is ineligible to purchase or possess 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 firearms purchase consent form, a Class 5 felony). Therefore, this bill could increase the number of people sentenced to 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 854, 2019 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, Courts, Commonwealth's Attorneys, Department of Corrections, Local and regional jails.

10. Technical Amendment Necessary: No.

11. Other Comments: None.