

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** HB36ER

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. **Patron:** Willett

3. **Committee:** Passed in both Houses.

4. **Title:** Owner of firearm; use of firearm by minor in an unlawful manner or to cause bodily injury.

5. **Summary:** The proposal amends § 18.2-371.1 to establish a new felony offense relating to causing or enabling child to gain possession of a firearm. Currently, under § 18.2-371.1(A), it is a Class 4 felony for any parent, guardian, etc., either by willful act or omission, to cause or permit serious injury to the life or health of a child. Under § 18.2-371.1(B), a parent, guardian, etc., whose willful act or omission in the care of a child was so gross, wanton, and culpable as to show reckless disregard for human life is guilty of a Class 6 felony. Under the proposal, any parent, guardian, or other person who is 18 years of age or older responsible for the care of a child under the age of 18 whose willful act or omission causes or enables that child to gain possession of a firearm (i) after having received notice of a preliminary determination that the child poses a threat of violence or physical harm to self or others or (ii) when such parent, etc. responsible for the care of the child knows or reasonably should know that such child has been charged, convicted, or adjudicated delinquent of a violent juvenile felony (as defined in § 16.1-228) would be guilty of a Class 5 felony. The proposal also specifies that no person would be subject to the proposed felony if certain enumerated conditions are satisfied. Lastly, the proposal amends § 53.1-202.3 to exclude the proposed felony from the list of offenses under § 53.1-202.3 (A) for which, a maximum of 4.5 sentence credits may be earned for each 30 days served on a sentence.

6. **Budget Amendment Necessary:** Yes, Item 390.

7. **Fiscal Impact Estimates:** Final, see Item 8 below.

8. **Fiscal Implications:** By creating a new felony offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, this information does not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal; therefore, the magnitude of the impact on prison bed space needs cannot be quantified.

Similarly, the proposal may also increase local-responsible (jail) bed space needs. However, the magnitude of the impact cannot be determined. There is not enough information available to reliably estimate the increase in jail population as a result of this proposal expanding

applicability of existing misdemeanor offenses. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$5.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail and \$15.00 a day for each state-responsible prisoner. 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 2023), the estimated total state support for local jails averaged \$45.76 per inmate, per day in FY 2022.

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 1, 2023 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected: State and local law enforcement agencies, Department of corrections, Courts, Commonwealth's Attorneys, Public Defenders, and local and regional jails.

10. Technical Amendment Necessary: No.

11. Other Comments: None.