

## Department of Planning and Budget 2016 Fiscal Impact Statement

1. **Bill Number:** SB187

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

2. **Patron:** Marsden

3. **Committee:** Courts of Justice

4. **Title:** Transfer of firearms; permit required.

5. **Summary:** The proposal requires the Department of State Police to establish procedures for issuing firearms transfer permits and provides that a person, other than a licensed dealer, who willfully and intentionally transfers a firearm to a person without a permit is guilty of a Class 1 misdemeanor. Essentially, the proposal expands requirements relating to criminal history record checks for firearms purchases to include additional types of transfers, such as gun shows and private transfers. Under the proposal, any person other than a firearms dealer who transfers a firearm must first require the prospective transferee to present a firearms transfer permit and proper identification. The proposal specifies procedures for the State Police to issue firearms transfer permits to Virginia residents. These procedures require individuals to submit an application made under oath before a notary or other person qualified to take oaths. The applicant must also consent to a criminal history record check to determine that the applicant is not prohibited from possessing a firearm under state or federal law. However, the firearms transfer permit could also be used when purchasing firearms from dealers. The proposal requires the State Police to run periodic criminal history records checks on firearms transfer permit holders and authorizes the State Police to suspend or revoke permits. The proposal sets out specific exceptions to the proposed requirements.

6. **Budget Amendment Necessary:** Yes. Item 422 (Department of State Police); and Item 394 (Department of Corrections, prison bed space minimum impact of \$50,000).

7. **Fiscal Impact Estimates:** Tentative. See Items 7a and 8.

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2017	\$1,200,058	3	General Fund
2018	\$193,248	3	General Fund
2019	\$193,248	3	General Fund
2020	\$193,248	3	General Fund
2021	\$193,248	3	General Fund
2022	\$193,248	3	General Fund

8. **Fiscal Implications:** According to the Department of State Police (Department), the implementation of this legislation would create a fiscal impact due to the costs associated with modifying several IT systems to allow for issuing firearms transfer permits. The affected systems

are the Virginia's Criminal History (CCH) system that tracks all criminal cases and dispositions and is the system of record for criminal data in Virginia; the Virginia Criminal Information Network (VCIN) that serves as a statewide data communications network incorporating computerized links to regional and national law enforcement systems; and the VCheck system that provides Virginia firearms dealers with Internet access to the State Police's firearms transaction system for processing background check requests on potential firearms purchasers. The cost for the modifications is estimated \$152,160.

Additionally, there is a multi-year effort under way to replace the legacy COBOL based CCH system with a Java based system, which is projected to be completed on or about April 2017. The modifications needed under the proposed legislation would essentially pause the transformation project currently underway and delay the anticipated legacy system replacement schedule, resulting in additional cost of \$800,000, for a total cost of \$952,160. The Department also believes that further delay to the CCH replacement project beyond April 2017 may add considerable risk to the project, such as scope change and modifying code that is under development, project staff retention, and possible legacy system failures. While these risks may result in substantial cost increase to the project, it is not feasible to calculate the actual cost at this time.

If changes required under the proposal are performed on the new CCH system after the current project is completed (April 2017), then the systems modification cost is reduced to an estimated cost of \$152,160.

Additionally, the Department's Criminal Justice Information Services Division (CJIC) firearms section will require three additional personnel to perform functions related to the receipt, processing, and issuance of firearms transfer permits, notices of suspension or denied applications, and all associated data entry and clerical processes. The total number of concealed handgun permits issued by Virginia circuit courts during the last three years (2013, 2014, and 2015) is 228,110. Based on this volume, the Department estimates that three additional Program Support Technicians would be needed at the first year cost of \$197,898 and the second year cost at \$193,248 (the higher funding amount required in the first year includes one-time nonpersonnel costs).

The proposed legislation could result in an increase in the jail population since Class 1 misdemeanor offense may result in sentences of up to 12 months in jail (and a fine up to \$2,500). A Class 5 felony carries a sentence of 1 to 10 years in prison. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison. However, here 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 most 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 2015), the estimated total state support for local jails averaged \$32.24 per inmate, per day in FY 2014.)

According to the Virginia Criminal Sentencing Commission's fiscal impact statement for the proposed legislation, the impact of the legislation on state-responsible (prison) space cannot be determined. In such cases, Chapter 665 of the 2015 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill. The necessary appropriation for the Department of Juvenile Justice cannot be determined for periods of commitment to the custody.

The fiscal impact provided under Item 7a. is based upon the conservative assumption that in the first year (FY2017) the IT systems modifications changes will be implemented at the cost of \$952,160, it also includes the full year cost of \$197,898 for three positions, and the one-time prison bed needs cost impact of \$50,000. The cost for the second and subsequent years reflects only the personnel cost at \$193,248 per annum.

The proposal also allows the Department to charge a fee to cover administrative costs of the firearms transfer permit program. Therefore, the expenditure impact under the proposal may potentially be offset by the revenue collected by the Department. However, the amount of potential revenue cannot be determined as it contingent upon whether or not the Department will charge a fee and other unknown factors, such as the number of application for firearms transfer permits and the amount of the fee charged per such permit.

**9. Specific Agency or Political Subdivisions Affected:** Department of State Police, Department of Corrections, Department of Juvenile Justice, Compensation Board, Department of State Police, regional and local jails.

**10. Technical Amendment Necessary:** The proposal provides an exemption to the state and federal criminal background check requirement at the time of purchase of a firearm by persons at least 21 years of age who present a Firearms Transfer Permit issued by the State Police. Virginia resident concealed handgun permits are issued for a 5-year period, and do not meet the standards as an alternative to the National Instant Criminal Background Check System (NICS). The basic requirements by the U.S. Department of Justice for approval of a NICS-alternative permit is that the permit is issued within the past 5 years and the permit process has verified that the person possessing the firearm does not violate any federal or state law. [18 U.S.C. 922(t), 27 CFR 478.102(d)]. The proposed legislation does not require a five years expiration date on a firearm transfer permit. Therefore, the Department suggests an amendment to the proposal that would include a permit issue/expiration date.

**11. Other Comments:** To accommodate the current Department of State Police CCH legacy replacement project scheduled for completion on or about April of 2017, and to provide the Department adequate time to implement the required IT systems modifications under the proposal, it is suggested that the provisions of the proposal become effective July 1, 2017.

**Date:** 1/20/2016-SB187.doc (LAJ)