

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB140

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|-----------------|-------------------------------------|--------------|--------------------------|------------|--------------------------|-----------|
| 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: Levine

3. Committee: Militia, Police and Public Safety

4. Title: Background checks for all firearms transfers.

5. Summary: Requires any person who sells, rents, trades, or transfers a firearm to obtain verification from a licensed dealer in firearms that information on the prospective purchaser or transferee has been submitted for a criminal history record information check, and that a determination has been received from the Virginia of State Police (VSP) that the prospective purchaser or transferee is not prohibited under state or federal law from possessing a firearm. It also requires VSP to develop a process by which transferors may obtain from designated licensed dealers the approval or denial of firearm transfer requests, based on criminal history record information checks. Violation of this provision is a Class 1 misdemeanor. The provision provides exemptions in the following cases: for transfers between immediate family members; by operation of law; by an executor of an estate or trustee of a trust in which the firearm is property of the estate or trust; temporary transfers in the presence of the gun owners; or transfers that are necessary to prevent imminent death or injury. Under current law, background checks of prospective purchasers and transferees by private vendors and individuals are voluntary

6. Budget Amendment Necessary: Yes. Items 394 and 422 of the introduced budget bill (of HB30/SB30) includes funding for the fiscal impact associated with the proposed legislation.

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

8. Fiscal Implications: VSP currently has procedures in place to process transfers between private parties. VSP conducts investigations relating to firearms transactions, including in cases when individuals provide false information on a background check form. In 2017, three troopers handled 367 cases in Division 1, three troopers investigated 531 cases in Division 5, and three others handled 183 investigations in Division 7. As a result of this proposed legislation, VSP anticipates an additional 100 investigations annually relating to individuals providing false information on background check consent forms, which is based on their current rejection rate. The introduced budget includes funding to support seven administrative positions, \$392,356 the first year, and \$523,141 in the second year, to process additional firearms-purchase criminal background checks.

This bill will increase the number of individuals convicted of a Class 1 misdemeanor, which is punishable by up to 12 months' incarceration, and/or a fine up to \$2,500. Individuals who are convicted of this offense for the third time, and for subsequent convictions, will be found guilty of a Class 6 felony, which can have the same punishment as a Class 1 misdemeanor, or a person may receive between 1-5 years in prison. The bill may also increase the number of people convicted of providing false information on a background check consent form, a Class 5 felony, punishable by between 1-10 years in prison, or up to 12 months in jail and a \$2,500 fine. This proposal could result in an increase in the number of persons sentenced to jail or prison.

There 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 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 2017), the estimated total state support for local jails averaged \$34.58 per inmate, per day in FY 2016.

Chapter 836 of the 2017 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to this bill because the impact on state-responsible (prison) bed space cannot be determined due to insufficient data. This amount was included in the introduced budget for the 2018-2020 biennium. The impact on the Department of Juvenile Justice and local correctional facilities cannot be determined.

9. Specific Agency or Political Subdivisions Affected: Department of State Police, Department of Corrections, Local corrections, and Department of Juvenile Justice.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is identical to HB977.