

## **Department of Planning and Budget**

### **2018 Fiscal Impact Statement**

**1. Bill Number:** HB721

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

**2. Patron:** Plum

**3. Committee:** Militia, Police and Public Safety

**4. Title:** Background checks for all firearms transfers.

**5. Summary:** Under the proposal, a person who transfers a firearm must first obtain verification from a licensed firearms dealer that a prospective purchaser is not prohibited from possessing a firearm under state or federal law. It expands requirements relating to criminal history record checks for firearms purchases to include additional types of transfers, such as gun shows and private transfers. In addition, the proposal sets out specific exceptions to these restrictions in the following instances: 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 continuous presence of the gun owner; when such transfer is temporary and occurs at a shooting range for the purpose of target shooting or other related activities; if the transfer is temporary and for the purpose of hunting, trapping, or related activities; or transfers that are temporary and necessary to prevent imminent death or injury. Violation of this provision is a Class 1 misdemeanor.

**6. Budget Amendment Necessary:** Yes. Items 391 and 419 of the introduced budget bill (HB30/SB30) include 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 investigated 367 cases in Division 1, three troopers investigated 531 cases in Division 5, and three troopers investigated 183 cases in Division 7.

All of these investigations were related to firearm transactions. As a result of this proposed legislation, VSP anticipates additional investigations relating to individuals providing false information on background check consent forms. The introduced budget (HB30/SB30) includes funding to support seven administrative positions, \$392,356 the first year, and \$523,141 in the second year, to process additional firearms criminal background checks.

This proposal could result in an increase in the number of persons sentenced to jail or prison. Under the proposal, any person who transfers a firearm without first obtaining such verification would be guilty of a Class 1 misdemeanor, which is punishable by up to 12

months in jail, and/or a fine up to \$2,500. A person convicted of this offense for the third time, and for subsequent convictions, could be found guilty of a Class 6 felony. For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or one to five years in prison. The bill may also increase the number of people convicted of providing false information on a background check consent form, which is a Class 5 felony, punishable by one to 10 years in prison, or up to 12 months in jail and a \$2,500 fine.

However, 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:** None.