

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB1004S1

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

2. Patron: Mullin

3. Committee: Senate Committee on the Judiciary

4. Title: Protective orders; possession of firearms; surrender or transfer of firearms; penalty.

5. Summary: The legislation amends §§ 18.2-308.1:4 and 18.2-308.2:1 of the Code of Virginia, relating to the surrender or transfer of firearms by persons subject to protective orders. Currently, under § 18.2-308.1:4, it is a Class 1 misdemeanor for any person subject to a protective order to purchase or transport a firearm during the period the order is in effect. Additionally, under this provision, any person with a concealed handgun permit is prohibited from carrying a concealed firearm for the duration of the protective order and must surrender his permit to the court during that time period. The bill would expand the Class 6 felony defined in § 18.2-308.1:4 (B) to prohibit persons subject to a protective order pursuant to § 19.2-152.10, related to the health and safety of a petitioner and their family or household members, from knowingly possessing a firearm.

The proposal would also expand the Class 4 felony under § 18.2-308.2:1 for transferring or intending to transfer a firearm to prohibited persons, to include protective order subjects under § 18.2-308.1:4 (B) as prohibited persons. In addition, the proposal would require a court to order a person subject to a protective order issued under § 16.1-279.1 or § 19.2-152.10 to, within 24 hours, surrender any firearm in his possession to a designated local law-enforcement agency, sell or transfer any firearms in possession to a dealer, or sell or transfer any firearms in possession to any person who is not otherwise prohibited by law from possessing firearms. The person must then certify in writing that he does not possess any firearms or that all firearms that he possessed have been surrendered, sold, or transferred and file such certification with the clerk of court within 48 hours after being served with a protective order.

Any person who willfully fails to certify such requirement would be guilty of a Class 1 misdemeanor.

The proposal would also establish procedures for designating a local law-enforcement agency to receive and store firearms as well as a process to return surrendered firearms. It also specifies that for the purpose of designating a local law-enforcement agency to receive and store firearms, the chief judge of the circuit court must coordinate with the local law-enforcement agencies within the judicial circuit to determine which agencies have the capacity to receive and store firearms.

- 6. Budget Amendment Necessary:** No. The introduced budget (HB30/SB30) includes \$50,000 in Item 402 for the estimated net increase in the operating cost of the state prison bed resulting from the enactment of the proposed legislation. Additionally, the Governor's proposed executive amendments to the introduced budget provide a one-time \$500,000 appropriation in Item 406 for Department of Criminal Justice (DCJS) to award grants to localities for storage of surrendered firearms.
- 7. Fiscal Impact Estimates:** Preliminary (see Item 8 below).
- 8. Fiscal Implications:** The proposed legislation may have a fiscal impact on local law enforcement agencies responsible for storing surrendered firearms. The Governor's proposed executive amendments to the introduced budget (HB30/SB30) provides a one-time \$500,000 appropriation in Item 406 for Department of Criminal Justice (DCJS) to award grants to localities for storage of surrendered firearms.

By expanding existing Class 6 and Class 4 felonies, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Available data do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal; therefore, the impact of this portion of the proposal on prison bed space needs cannot be determined. 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.

The introduced budget includes \$50,000 in Item 402 for legislation related to the prohibition of the possession of firearms for persons subject to final orders of protection.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. According to the Virginia Criminal Sentencing Commission, not enough information is available to reliably estimate the increase in jail population as a result of this element of the proposed legislation; however, any increase in jail population will increase costs to the state. The Commonwealth currently pays 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 varies from locality to locality. 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.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Criminal Justice Services; Courts; Commonwealth's Attorneys; Department of Corrections; local jails; local law enforcement agencies.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** This bill is identical to SB479H1.