

## Department of Planning and Budget 2020 Fiscal Impact Statement

**1. Bill Number:** HB1288 H1

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

**2. Patron:** Murphy

**3. Committee:** Public Safety

**4. Title:** Purchase, possession, or transportation of firearms following two or more misdemeanor convictions.

**5. Summary:** This bill establishes § 18.2-308.1:6, which prohibits anyone from knowingly and intentionally purchasing, possessing, or transporting any firearm following a misdemeanor conviction for an offense of (i) stalking in violation of § 18.2-60.3, (ii) sexual battery in violation of § 18.2-67.4, (iii) assault and battery of a family or household member (defined in § 16.1-228), (iv) assault and battery when the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color, or national origin in violation of subsection A of § 18.2-57, or (v) an offense substantially similar to clause (i), (ii), (iii), or (iv) under the laws of any other state or of the United States. The bill applies this provision to an offense that occurred on or after July 1, 2020. Violation of this provision is punishable as a Class 1 misdemeanor.

The bill provides a process by which a person convicted of such crimes may, no earlier than five years from the date of conviction, petition the circuit court for a reinstatement of his right to possess or transport a firearm. The bill requires a copy of the petition to be mailed or delivered to the attorney for the Commonwealth and requires the court to conduct a hearing if requested by either party. The bill outlines factors the court must consider when granting a petition to issue a permit to carry a firearm including: (i) the issuance of protective orders to which the petitioner is subject; (ii) violations of protective orders to which the petitioner is subject; (iii) evidence of misuse of alcohol or controlled substances by the petitioner; (iv) successful completion of treatment for misuse of alcohol or controlled substances by the petitioner; and (v) successful completion of a batterer intervention program by the petitioner. The clerk of court must certify and forward to the Central Criminal Records Exchange (CCRE), on a form provided by the CCRE, a copy of any such order.

Current law allows anyone who is prohibited from possessing, transporting, or carrying a firearm, ammunition for a firearm, or a stun weapon under § 18.2-308.2 (governs possession or transportation of certain weapons by convicted felons) to petition a circuit court for a permit to possess or carry a firearm, ammunition for a firearm, or a stun weapon; however, no person who has been convicted of a felony shall be qualified to petition for such a permit unless his civil rights have been restored by the Governor or other appropriate authority. This bill outlines factors, identical to those enumerated above, which the court must consider when granting such a petition.

6. **Budget Amendment Necessary:** Yes, Item 402 (Department of Corrections). The Governor's introduced budget (HB30/SB30) provides funding in Item 425 for Virginia State Police to amend Form SP-65.
7. **Fiscal Impact Estimates:** Preliminary. See below.
8. **Fiscal Implications:** This bill prohibits any person from purchasing, possessing, or transporting a firearm if he has been convicted of any misdemeanor offense included in the bill that occurred on or after July 1, 2020. It provides that such individuals who have met certain requirements may petition the circuit court for reinstatement of these rights.

According to the Department of State Police (VSP), the provisions of this bill would require a modification of the form that all prospective weapons purchasers are required to complete at the time of purchase (Form SP-65) to include a question regarding a conviction under § 18.2-57.2. The one-time cost to print and mail a copy of the new form to all firearms dealers in the Commonwealth is \$14,086.47, according to VSP. The Governor's introduced budget for the 2020-2022 biennium includes this funding in the first year.

This bill is not expected to have a material fiscal impact on the courts.

This proposed legislation makes it a Class 1 misdemeanor to purchase, possess, or transport a firearm for individuals convicted of assault and battery of a family or household member for incidents occurring on or after July 1, 2020. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the 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 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 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

A third or subsequent misdemeanor conviction would be a Class 6 felony, pursuant to § 18.2-311.2. In the six most recent fiscal years required for analysis, however, no offenders convicted of a Class 6 felony under § 18.2-311.2 received a state-responsible (prison) sentence. However, this bill does expand the applicability of existing felonies, including: § 18.2-308.2:1 (selling, bartering, giving, or furnishing a firearm to a person who is prohibited from possessing one, a Class 4 felony); § 18.2-308.2:2(M) (purchasing a firearm with the intent to transfer it to a person who is prohibited from possessing it, a Class 4 felony with a mandatory minimum term of one year for the transfer of one weapon and a mandatory minimum term of five years for the transfer of multiple weapons); § 18.2-308.2:2(N) (soliciting, employing, or assisting any person in the purchase of a firearm by a person who is ineligible to purchase or possess one, a Class 4 felony with a mandatory minimum term of five years); and § 18.2-308.2:2(K) (making a materially false statement on a firearms

purchase consent form, a Class 5 felony). Therefore, this bill could increase the number of people sentenced to prison. 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.

**9. Specific Agency or Political Subdivisions Affected:** Department of State Police, Courts, Commonwealth's Attorneys, Department of Corrections, Local and regional jails.

**10. Technical Amendment Necessary:** None

**11. Other Comments:** None