

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB436ER

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

2. Patron: Surovell

3. Committee: Passed both houses.

4. Title: Establishment of the Virginia Voluntary Do Not Sell Firearms List; penalty.

5. Summary: The bill requires the Department of State Police (VSP) to establish the Virginia Voluntary Do Not Sell Firearms List (the List) to prohibit the possession, transportation, and sale of firearms to any person who voluntarily registers himself to be enrolled in the List. VSP is required to maintain and update the List, and use it to advise a dealer if VSP's records indicate a buyer or transferee of firearms is prohibited from purchasing, possessing, or transporting a firearm.

Any person 18 years of age or older may apply in writing to VSP to request voluntary enrollment into the List and, after being enrolled, may apply to request removal on forms provided by VSP on the agency's website. Such forms must state that any person enrolled in the List must not be removed from it until 21 days after VSP has received his application for removal. Upon enrolling someone into the List, VSP must forward such person's eligibility to purchase, possess, or transport a firearm to the National Instant Criminal Background Check system. The Department must also notify the person by mail that he has been enrolled. Upon receipt of a person's removal request, VSP must update the person's eligibility in the National Instant Criminal Background Check system and destroy all records of enrollment into and request for removal from the List. The bill makes it unlawful for any person enrolled into the List to purchase, possess, or transport a firearm; a violation is a Class 3 misdemeanor. Any person who sells, barter, gives, or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving, or furnishing, any firearm to a person he knows is prohibited from purchasing, possessing or transporting a firearm due to his enrollment into the List is guilty of a Class 1 misdemeanor.

The bill also provides that it is unlawful for any person to inquire as to whether another person has been enrolled into the List for any purpose other than to determine his eligibility to purchase, possess, or transport a firearm. The bill also makes it unlawful for any person to knowingly give false information or to make any false statement with the intent of enrolling or removing another person from the List and to discriminate against any person with respect to health care services, employment, education, housing, insurance, governmental benefits, or contracting because that person is not on the List, is on the List, or has previously been on the List. A violation of any of these is a Class 1 misdemeanor.

The bill has an effective date of July 1, 2021.

6. Budget Amendment Necessary: Yes. Item 402.

7. Fiscal Impact Estimates: Final. See below.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020			
2021			
2022	\$50,000	0	General
2023			
2024			
2025			
2026			

8. Fiscal Implications: The proposed legislation creates the Voluntary Do Not Sell Firearms List (the List). It requires the Department of State Police (VSP) to maintain and update the List, and use it to make determinations about a person's ability to purchase, possess, or transport a firearm. It provides procedures for enrolling someone into and removing him from the List at his request, and creates several new offenses surrounding enrollment into the List.

VSP's Firearms Transaction Center (FTC) determines the eligibility of prospective purchasers of firearms to possess such weapons. According to VSP, there is no anticipated fiscal impact on its operations as a result of the provisions of this bill.

Under the proposed legislation, it is a Class 1 misdemeanor to sell, barter, furnish, or possess with the intent to sell, barter or furnish a firearm to another person who is prohibited from possessing it due to his enrollment in the List. It would also be a Class 1 misdemeanor to inquire as to someone's enrollment status for any purpose other than to determine his eligibility to purchase, possess, or transport a weapon; to give false information or to make any false statement with the intent of enrolling or removing another person from the List; and to discriminate against a person in certain respects because he is either enrolled or not enrolled on the list, or has been previously enrolled. The bill would make it a Class 3 misdemeanor for any person who is prohibited from purchasing, possessing, or transporting a firearm because of his inclusion on the List to do so.

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.

Additionally, the Class 1 misdemeanors provided for in this proposed legislation could be punishable as a Class 6 felony for a third or subsequent offense pursuant to § 18.2-311.2. In the six most recent fiscal years required for analysis, no offender convicted under § 18.2-311.2 received a state-responsible (prison) sentence. Therefore, this portion of the proposal is not anticipated to have a fiscal impact on the Department of Corrections (DOC).

The bill expands the applicability of several existing felonies, including § 18.2-308.2:2(L) (willfully and intentionally selling or transferring a firearm as a dealer to a person who is prohibited from possessing one, a Class 6 felony); § 18.2-308.2:2(M) (purchasing a firearm with the intent to transfer it to an individual who is ineligible to purchase it, a Class 4 felony with a mandatory minimum term of one year, and a mandatory minimum of five years for the transfer of multiple firearms); § 18.2-308.2:2(N) (soliciting, employing, or assisting another to purchase a firearm as someone who is ineligible to possess one, a Class 4 felony with a mandatory minimum term of five years); and § 18.2-308.2:3(C1) (committing perjury by falsely affirming as a dealer that all employees are not disqualified by federal or state laws from employment as a firearms dealer, a Class 5 felony). Therefore, this proposal could result in an increase in the number of persons 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. This funding will be needed in FY 2022 because the effective date for this proposed legislation is July 1, 2021.

Any potential fiscal impact on the Department of Juvenile Justice (DJJ) is indeterminate at this time.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.