

## Department of Planning and Budget 2020 Fiscal Impact Statement

**1. Bill Number:** SB64ER

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:** Lucas

**3. Committee:** Passed both House and Senate.

**4. Title:** Paramilitary activities; penalty.

**5. Summary:** The proposed legislation would makes it a Class 5 felony to point, hold, or brandish firearm, air or gas operated weapon or object similar in appearance while assembled with one or more persons with the intent to intimidate any person or group of persons.

**6. Budget Amendment Necessary:** No, Item 402 #1c of the Conference Report to HB30 includes \$50,000 in appropriation for the proposed legislation.

**7. Fiscal Impact Estimates:** Final (see Item 8 below).

**8. Fiscal Implications:** According to the Virginia Criminal Sentencing Commission (VCSC), 656 offenders were convicted of a Class 1 misdemeanor for brandishing a firearm (§ 18.2-282). However, there is not sufficient information to determine the number of offenders that were convicted of a Class 1 misdemeanor that would be convicted of a Class 5 felony under the proposed legislation. There was only one Class 5 felony conviction for paramilitary activity from FY 2014 through FY 2019 according to the VCSC. This was not the primary (or most serious) offense in this case. Although the offender received an active state-responsible (prison) sentence for the more serious offense, the conviction for paramilitary activity resulted in an imposed and suspended sentence of five years.

There is not enough information available to reliably estimate the increase in local or state prison beds 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 is a per prisoner, per day basis that 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. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the 2019 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

The impact on the Department of Juvenile Justice cannot be determined at this time.

**9. Specific Agency or Political Subdivisions Affected:** Courts; Commonwealth's Attorneys; Department of Corrections; local correctional facilities.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.