

## Department of Planning and Budget 2021 Fiscal Impact Statement

**1. Bill Number:** SB1250

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

**2. Patron:** Deeds

**3. Committee:** Judiciary

**4. Title:** Criminal history record information check required for firearm rentals; penalty.

**5. Summary:** Provides that upon receipt of a request for a criminal history record information check for a firearm transfer, the Department of State Police (VSP) shall review the Central Criminal Records Exchange (CCRE) if federal law does not authorize a National Instant Criminal Background Check Stem (NICS) check for such transfer. It also clarifies the term “rent,” as used in Code sections concerning the transfer of firearms, to mean a temporary change in dominion or control of a firearm for use at or on the premises of a dealer’s business location in exchange for money or other consideration.

**6. Budget Amendment Necessary:** Yes. Items 402 and 425.

**7. Fiscal Impact Estimates:** Preliminary. See Item 8 below.

**8. Fiscal Implications:** According to the Department of State Police (VSP), the proposed legislation would require the agency to modify its VCheck system, which is used to run background checks on prospective firearms purchasers, to accommodate the requirement to process checks on individuals seeking to rent a firearm. The same modification will need to be made to the system VSP is currently developing to replace that system, VCheck II. The one-time cost to modify the current VCheck system is approximately \$562,620; the one-time cost to modify VCheck II is \$421,440. VSP anticipates the VCheck II project will be completed in January 2023. The agency will also incur a one-time cost to modify the forms that firearms dealers must complete for all firearms transactions. The estimated cost to modify the form is approximately \$3,997.50.

VSP also estimates the bill will generate an additional 200 background check requests per day. Based on current rates, it is estimated that approximately one-third, or about 67 background checks, will require additional research. VSP estimates it would need one additional position to help process these requests at a cost of \$76,018 per year (salary and benefits). This position would also incur one-time furniture expenses of \$4,861, one-time start-up information technology expenses of \$1,991, and ongoing information technology services and equipment costs of \$1,540.

The proposed legislation expands the applicability of existing felony offenses, including § 18.2-308.2:2(K) (making a materially false statement on a criminal history consent form, a

Class 5 felony); § 18.2-308.2:2(L) (firearms dealer willfully and intentionally selling, renting, trading, or transferring a firearm in violation of this section, a Class 6 felony); and § 18.2-308.2:2(L1) (attempt to solicit, persuade, encourage, or entice a dealer to transfer or convey a firearm in violation of this section, and any other person who willfully and intentionally aids or abets such person, a Class 6 felony). Currently, a Class 5 felony is punishable by either a term of imprisonment of between one and 10 years, or confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. A Class 6 felony carries a term of imprisonment of between one and five years, or confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

According to the Virginia Criminal Sentencing Commission, existing data sources do not contain sufficient detail to estimate the number of felony convictions that could result from the enactment of this bill. However, affected offenders may be sentenced similarly to those who are currently convicted of a felony under existing provisions. First, based upon FY 2019 and FY 2020 Sentencing Guideline data, 220 offenders were convicted of a violation of 18.2-308.2:2(K). Of those, 77.7% were sentenced to probation, 15.5% were sentenced to jail terms with a median sentence of 5.5 months, and 6.8% received state-responsible (prison) sentences, with a median sentence of 1.3 years. During that same time period, there were no convictions under § 18.2-308.2:2(L) or § 18.2-308.2:2(L1).

Because the bill expands the applicability of existing felony offenses, the proposal may increase future state prison bed needs in the Commonwealth. However, available data is not sufficient to estimate the number of cases under the proposed legislation or estimate the overall impact. Accordingly, the magnitude of the impact on prison bed space cannot be determined at this time.

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 56, 2020 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

Any potential fiscal impact on local and regional jails or the Department of Juvenile Justice (DJJ) is indeterminate at this time.

The proposed legislation may also increase the local-responsible jail bed space needs, however the extent of the impact cannot be determined at this time using existing data. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanor 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. However, according to the Compensation Board's most recent Jail Cost Report (November 2020), the estimated total state support for local jails averaged \$34.59 per inmate, per day in FY 2019.

**9. Specific Agency or Political Subdivisions Affected:** Department of State Police,  
Department of Corrections.

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

**11. Other Comments:** None.