

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: HB1428

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: LaRock

3. Committee: Committee Referral Pending

4. Title: Firearms; carrying in public areas prohibited in certain localities.

5. Summary: The proposed legislation repeals the prohibition of (a) carrying loaded semi-automatic center-fire rifles and pistols with a magazine that holds more than 20 rounds of ammunition or is designed by the manufacturer to accommodate a silencer or equipped with a folding stock and (b) carrying shotguns with a magazine that holds more than seven rounds of ammunition whether chambered or carried by the person on any public street, road, alley, sidewalk, public right-of-way, or in any public park or any other place of whatever nature that is open to the public in the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Newport News, Norfolk, Richmond, or Virginia Beach or in the Counties of Arlington, Fairfax, Henrico, Loudoun, or Prince William. This offense is currently punishable as a Class 1 misdemeanor. The repeal of this law additionally removes the prohibition of carrying such weapons from the definition of a predicate criminal act and removes the required forfeiture of such weapons if they are concealed, possessed, transported, or carried in violation of law.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications: With the repeal of §18.2-287.4, there is the potential for a reduction of local (jail) and state-responsible (prison) bed space needs. According to the Virginia Criminal Sentencing Commission (VCSC), during the most recent six fiscal years, 214 defendants were convicted of a Class 1 misdemeanor under this law. Of these convictions, 30.8 percent were given a local-responsible jail term for which the median sentence was two months. Additionally, there is not sufficient data to determine the number of individuals convicted of a gang offense associated with a violation of §18.2-287.4. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail and a fine of not more than \$2,500, either or both. There is not enough information available to reliably estimate the decrease in jail population as a result of this proposal. However, any decrease in jail population will reduce 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 varies from locality to locality. However, according to the Compensation

Board's most recent Jail Cost Report (November 2022), the estimated total state support for local jails averaged \$40.39 per inmate, per day in FY 2021.

Pursuant to § 18.2-311.2, a third or subsequent Class 1 misdemeanor weapon violation is punishable as a Class 6 felony. The VCSC's data indicates that during the same six-year period, three offenders were convicted of a felony under this section for a third or subsequent weapon offense, of which the felony violation of § 18.2-311.2 was the primary offense for one of these offenders. This offender received a state-responsible prison sentence of 1.3 years. For someone convicted of a Class 6 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Therefore, this proposal could result in a reduction in the number of persons sentenced to jail or prison.

The potential savings associated with any population reduction depends on how many offenders would have been sentenced to a state-responsible (prison) term and where those offenders would ultimately serve their sentences. The annual cost of a bed in a Department of Corrections (DOC) facility in FY2022 was \$48,958 as calculated by the Department of Planning and Budget. The Commonwealth currently pays \$15.00 a day for each state-responsible prisoner held in a local or regional jail.

- 9. Specific Agency or Political Subdivisions Affected:** Courts, Department of Corrections, local and regional jails, local and state law enforcement agencies, Commonwealth's Attorneys, and Public Defender's Offices.

10. Technical Amendment Necessary: No.

11. Other Comments: No.