

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: HB1515

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Adams, D.M.

3. Committee: Committee Referral Pending

4. Title: Use of auto sear; prohibition; penalty.

5. Summary: The proposal makes it a Class 2 felony to possess or use an auto sear in the perpetration or attempted perpetration of a crime of violence. The bill also makes it a Class 4 felony to unlawfully possess or use an auto sear for an offensive or aggressive purpose. The bill defines auto sear as a small device with a combination of parts made of metal or plastic designed and intended for use in converting a weapon into a machine gun, as defined by 26 U.S.C. 5845(b).

6. Budget Amendment Necessary: Yes, Item 404.

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

8. Fiscal Implications: The proposal expands the existing Class 2 felony for possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence to include the possession or use of an auto sear, which is a device intended for use to convert a weapon into a machine gun. Under §18.2-10, a Class 2 felony is punishable by imprisonment for 20 years to life and a fine of up to \$100,000. Additionally, the proposal expands the existing Class 4 felony for the unlawful possession or use of a machine gun for an offensive or aggressive purpose to include the possession or use of an auto sear. A Class 4 felony is punishable by two to 10 years imprisonment and a fine of up to \$100,000. Proceeds of all fines and penalties collected for offenses committed against the Commonwealth are paid into the state treasury to the credit of the Literary Fund.

According to the Virginia Criminal Sentencing Commission (VCSC), between FY 2017 and FY 2022 there were eight offenders convicted of a Class 4 felony for the possession or use of a machine gun for an offensive or aggressive purpose. This offense was the primary (most serious) offense at sentencing for five of these offenders. Of these five offenders, one offender received a local-responsible (jail) term of three months and the remaining four offenders received state-responsible (prison) terms with a median sentence of 2.7 years. There were no Class 2 felony convictions for possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence. By expanding the applicability of two existing felonies, the proposal may increase the future state-responsible (prison) bed

space needs of the Commonwealth. However, available data are insufficient to estimate the number of new felony convictions that may result from the proposal. Due to the lack of data, the VCSC 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 2, 2022 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

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

10. Technical Amendment Necessary: No.

11. Other Comments: No.