

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: HB1579

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Sullivan

3. Committee: Public Safety

4. Title: Purchase or transportation of firearm by persons convicted of operating a boat or vehicle.

5. Summary: Provides that any person who, within a five-year period, has been convicted of two misdemeanor offenses of §§ 18.2-266 (driving while intoxicated), 29.1-738 (operating a boat or manipulating water skis, etc. in a reckless manner or while intoxicated), or 46.2-341.24 (driving a commercial vehicle while intoxicated) shall be ineligible to purchase or transport a handgun. A violation is a Class 1 misdemeanor.

6. Budget Amendment Necessary: Yes, Items 404 and 429.

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

8. Fiscal Implications: According to the Department of State Police (VSP), violations of operating a boat, etc. recklessly or while intoxicated are not currently reportable to VSP's Central Criminal Records Exchange (CCRE) to be included on a prospective firearm purchaser's criminal history record. To ensure this data is available, VSP indicates that it will need to create an electronic interface between VSP and the Department of Wildlife Resources (DWR) so that information related to violations of § 29.1-738 will be available. The estimated one-time cost to do this is approximately \$86,060, which includes \$36,060 in VSP internal IT development costs and \$50,000 in vendor costs to bridge this information to the Virginia Criminal Information Network (VCIN). Additionally, the firearm purchase form (SP-65) that VSP distributes to firearms dealers to be filled out by prospective purchasers will have to be amended to include a question related to previous convictions for the new disqualifying offenses. VSP estimates a one-time cost of \$15,313 in printing and postage costs to distribute the amended form to firearms dealers. Additionally, VSP may need additional program support technicians to review criminal history records under the provisions of the bill. However, it is unknown at this time how much additional workload the provisions of this bill will generate. The estimated cost of one program support technician is \$82,753 annually (salary and benefits).

According to the Department of Wildlife Resources (DWR), the agency reports that the bill is not expected to have a fiscal impact on agency operations to the extent they are able to

share data using the VSP system. However, if the bill would require DWR to create its own database to collect and share information related to criminal charges, there would be an associated fiscal impact. This document will be updated if additional information becomes available.

The proposed legislation creates a new Class 1 misdemeanor for a person with certain prior convictions from purchasing or transporting a handgun. 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 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 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.

According to information from the Virginia Criminal Sentencing Commission, existing databases do not provide sufficient detail to identify the number of new convictions likely to result from enactment of the proposal; however, such offenders may be sentenced similarly to those who have been convicted under existing provisions.

According to General District Court Case Management System (CMS) data for fiscal years 2017 through 2022, two offenders were convicted of a Class 1 misdemeanor under § 18.2-308.1:5 for purchasing or transporting a handgun following two misdemeanor drug offenses. One offender received a local-responsible (jail) sentence of 10 days; the other did not receive an active term of incarceration to serve after sentencing.

Offenders convicted of the proposed Class 1 misdemeanor who accumulate three or more weapon convictions could be found guilty of a Class 6 felony under § 18.2-311.2. According to Circuit Court CMS data for fiscal years 2017 through 2022, three offenders were convicted of a Class 6 felony for a third or subsequent weapons offense. This was the most serious offense for one offender, who received a state-responsible (prison) sentence of 1.3 years. By expanding the applicability of an existing Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, available data do not provide sufficient detail to estimate the number of new felony convictions that may result from the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

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 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: Department of State Police,
Department of Wildlife Resources, Department of Corrections, Local and regional jails.

10. Technical Amendment Necessary: No.

11. Other Comments: None.