

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: SB1188

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Reeves

3. Committee: Judiciary

4. Title: Weapon of terrorism; definition; penalty.

5. Summary: Includes any mixture or substance containing a detectable amount of fentanyl, including its isomers, esters, ethers, salts, and salts of isomers, as a weapon of terrorism for the purpose of defining terrorism offenses. The bill provides that any person who sells, gives, distributes, or manufactures a weapon of terrorism when that weapon of terrorism is, or contains, any mixture or substance containing a detectable amount of fentanyl is guilty of a Class 2 felony.

6. Budget Amendment Necessary: Yes. Item 404.

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

8. Fiscal Implications: According to the data from the Virginia Criminal Sentencing Commission (VCSC), between FY 2017 through FY 2022, two offenders were convicted of a felony for possession of an actual or imitation weapon of terrorism. The violation was the primary (most serious) offense at sentencing for one case and the offender was convicted of two counts of possession of a weapon of terrorism with intent to terrorize, a Class 2 felony, and was sentenced to serve a state-responsible (prison) term of 99 years. The other offender was convicted of two counts of possession of an imitation weapon of terrorism with intent to intimidate, a Class 6 felony, and was sentenced to serve a local-responsible (jail) term of 20 months. However, this offender was given a 5-year suspended sentence on each count of the imitation weapon of terrorism violations.

Because the proposed bill expands the applicability of several existing felonies, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, existing data are insufficient to estimate the number of additional felony convictions that may result from enactment of 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.

The proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined. 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 and \$15.00 a day for each state-responsible prisoner. It also funds a considerable portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis 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.

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

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.