

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: SB1353

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Norment

3. Committee: Judiciary

4. Title: Firearms-related offenses; mandatory minimum sentences; penalty.

5. Summary: This bill makes the following changes to penalties and minimum mandatory sentences imposed for certain firearm-related offenses:

- Increases the mandatory minimum sentence imposed for using a firearm in the commission of certain felonies, pursuant to § 18.2-53.1 (Use or display of firearm in committing felony), from three years to five years for the first offense and from five years to ten years for any second or subsequent offense. These mandatory terms must run consecutively with any punishment received for the primary felony.
- Increases the penalty for knowingly possessing a firearm within a child day care center or school, intending to use such firearm, or displaying such firearm in a threatening manner, pursuant to § 18.2-308.1(C), from a Class 6 felony to a Class 5 felony and increases the mandatory minimum sentence imposed from five years to ten years.
- Increases the penalty for possession of a firearm by a convicted felon, pursuant to § 18.2-308.2 (Possession or transportation of firearms, firearms ammunition, stun weapons, explosives or concealed weapons by convicted felons) from a Class 6 felony to a Class 5 felony and increases the mandatory minimum penalty imposed for a felon who was previously convicted of a violent felony as defined in § 17.1-805 from five years to ten years and for any a felon who was previously convicted of a nonviolent felony from two years to five years.

6. Budget Amendment Necessary: Yes, Item 404.

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

8. Fiscal Implications: According to fiscal year (FY) 2021 and FY 2022 Circuit Court Case Management System (CMS) data provided by the Virginia Criminal Sentencing Commission (VCSC), a total of 1,937 offenders were convicted of a completed felony offense under the sections of the Code of Virginia that are affected by this bill and, therefore, were subject to the mandatory minimum sentences specified in these sections. The firearm convictions under

§ 18.2-53.1 were most frequently accompanied by robbery, felony assault, or murder convictions. Firearm convictions carrying mandatory minimum terms under § 18.2-308.2 were most frequently accompanied by a felony offense involving possession, distribution, etc. of Schedule I/II drugs.

Because the bill increases penalties and mandatory minimum sentences imposed for certain felony charges, VCSC's data indicates that the bill is expected to have an impact on the future state-responsible prison bed space needs of the Commonwealth. Pursuant to §30-19.1:4 of the Code of Virginia, VCSC estimates a fiscal impact of \$50,681,842. The amount is based on the projection that the legislation will result in 1,035 additional offenders being incarcerated in prison by FY 2029. Cost per prison bed was assumed to be \$48,958 per year as provided by the Department of Planning and Budget to VCSC pursuant to § 30-19.1:4. Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.

According to VCSC analysis, this bill is not expected to increase future need for local-responsible (jail) beds.

VCSC reports that this bill is not expected to increase the need for community corrections resources and would delay the need for services for some offenders affected by the proposal, as they would stay in prison longer prior to being released to the community. The impact of delaying such services cannot be estimated at this time.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, local and regional jails, Public Defenders offices, Commonwealth's Attorneys, courts

10. Technical Amendment Necessary: No

11. Other Comments: This is a companion to HB2360.