

Department of Planning and Budget

2023 Fiscal Impact Statement

1. Bill Number: SB1382

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Deeds

3. Committee: Judiciary

4. Title: Purchase, possession, sale, transfer, etc., of assault firearms and certain ammunition feeding.

5. Summary: Provides that localities may participate in voluntary gun buy-back or give-back programs for the surrendering of an assault firearm. Creates a Class 1 misdemeanor for any person who imports, sells, manufactures, purchases, possesses, transports, or transfers an assault firearm. The bill also creates a Class 1 misdemeanor for any person younger than 21 years of age who imports, sells, manufactures, purchases, possesses, transports, or transfers an assault firearm. The bill makes it a Class 1 misdemeanor under the proposed § 18.2-308.1:9 to knowingly and intentionally purchase, possess, or transport a firearm following a conviction for either of these misdemeanors; a conviction under this proposed section would disqualify an individual from obtaining a concealed handgun permit. It expands the applicability of an existing Class 1 misdemeanor for individuals who furnish a weapon to someone who is ineligible to possess one after a conviction under the proposed § 18.2-308.1:9.

The bill prohibits dealers from selling, renting, trading, or transferring any semi-automatic center-fire rifle or pistol that expels single or multiple projectiles by action of an explosion of a combustible material and is equipped at the time of the offense with a magazine that will hold more than 20 rounds of ammunition or is designed by the manufacturer to accommodate a silencer, or is equipped with a folding stock to a person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence.

The bill also provides that no person shall sell an assault firearm for money, goods, services, or anything else of value, and that any person who willfully and intentionally sells an assault firearm to another person or purchases one from another person is guilty of a Class 1 misdemeanor. Additionally, any person who imports, sells, barter, or transfers a large capacity ammunition feeding device is guilty of a Class 1 misdemeanor, according to the provisions of the bill. The bill also expands § 19.2-386.28 concerning the forfeiture of weapons to the Commonwealth for disposal.

6. Budget Amendment Necessary: Yes, Item 404.

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

8. Fiscal Implications: According to the Virginia Criminal Sentencing Commission, existing data sources do not contain sufficient detail to estimate the number of additional convictions that may result from enactment of the proposed legislation. However, individuals convicted under various aspects of the proposal may be sentenced similarly to those convicted under the following existing provisions:

- According to General District Court Case Management System (CMS) data from fiscal years 2021 to 2022, 22 offenders were convicted of a Class 1 misdemeanor for possessing a firearm following a misdemeanor conviction for assault and battery of a family member. Of these, 81.8 percent were sentenced to probation and the remainder were sentenced to jail with a median sentence of 1.3 months.
- According to Circuit Court CMS data from fiscal years 2021 to 2022, one person was sentenced to a Class 6 felony for a third or subsequent misdemeanor firearms offense. This offender received a prison sentence of 1.3 years.
- According to Sentencing Guidelines Database data for fiscal years 2021 to 2022, 222 offenders were convicted of a Class 5 felony for giving a false statement on a record check consent form. Of these, 80.2 percent were sentenced to probation, 16.2 percent were sentenced to jail terms with a median sentence of six months, and 3.6 percent were sentenced to prison with a median term of one year.
- According to Circuit Court CMS data for fiscal years 2021 to 2022, no offenders were convicted of a Class 6 felony for dealer selling or transferring of firearm violations during this time period.
- According to Circuit Court CMS data for fiscal years 2021 to 2022, two offenders were convicted of a Class 6 felony for soliciting, etc. a dealer to transfer a firearm to another. Both offenders were sentenced to probation.
- According to Circuit Court CMS data for fiscal years 2021 to 2022, no offenders were convicted of a Class 4 felony for transporting a firearm out of state to provide it to an ineligible person.
- According to Circuit Court CMS data for fiscal years 2021 to 2022, one offender was convicted of a Class 4 felony for soliciting a violation of § 18.2-308.2:2(M) (purchasing a firearm with the intent to resell or transfer to an ineligible person). That offender was sentenced to a state-responsible (prison) sentence of 9.6 years.

Because the proposed legislation expands the applicability of existing felony offenses, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal; therefore, the magnitude of the impact on prison bed space needs cannot be quantified.

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.

The proposed legislation also creates new Class 1 misdemeanors and expands the applicability of existing ones. 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 misdemeanor 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.

9. Specific Agency or Political Subdivisions Affected: Courts, Commonwealth's Attorneys, Department of Corrections, Local and regional jails.

10. Technical Amendment Necessary: No.

11. Other Comments: None.