

## Department of Planning and Budget 2024 Session Fiscal Impact Statement

**1. Bill Number:** SB44ER

|                 |                                       |                                     |  |
|-----------------|---------------------------------------|-------------------------------------|--|
| House of Origin | <input type="checkbox"/> Introduced   | <input type="checkbox"/> Substitute | <input type="checkbox"/> Engrossed           |
| Second House    | <input type="checkbox"/> In Committee | <input type="checkbox"/> Substitute | <input checked="" type="checkbox"/> Enrolled |

**2. Patron:** VanValkenburg

**3. Committee:** Passed both houses.

**4. Title:** Abuse and neglect of children; causing or enabling child to gain access or possess a firearm; penalty.

**5. Summary:** The bill amends § 18.2-371.1 of the Code of Virginia to include a Class 5 felony penalty for any parent, guardian, or other person who is 18 years of age or older and is responsible for the care of a child under the age of 18 whose willful act or omission causes or enables that child to gain possession of a firearm (i) after having received notice of a preliminary determination that the child poses a threat of violence or physical harm to self or others or (ii) when such parent, guardian, or other person responsible for the care of the child knows or reasonably should know that such child has charges pending for or has been convicted or adjudicated delinquent of a violent juvenile felony. No person will be subject to arrest or prosecution for (i) a violation of enabling a child under 18 to gain possession of a firearm after receiving a notice of preliminary determination that the child poses a threat to themselves or others, if such person has received notice that the threat assessment team that made such preliminary determination has concluded that the child does not indicate a threat to themselves or to others or that any case or review opened or conducted by that threat assessment team has been closed or (ii) a violation of enabling a child under 18 to gain possession of a firearm when such parent, guardian, or other person responsible for the care of the child knows or reasonably should know that such child has charges pending for or has been convicted or adjudicated delinquent of a violent juvenile felony, if such person has received notice that any pending charge for a violent juvenile felony has been dismissed or a nolle prosequi has been entered. The bill also provides provisions for an affirmative defense to prosecution for a violation of the provisions of the substitute if the parent, guardian, or other person responsible for the care of a child caused or enabled such child to gain possession of a firearm while in a dwelling because of a reasonable belief that he or such child was in imminent danger of bodily injury.

In addition, the bill amends § 53.1-202.3 (prerequisites for earned sentence credits) to include the proposed provisions as a prerequisite to earn sentence credits.

**6. Budget Amendment Necessary:** Yes, Item 390.

**7. Fiscal Impact Estimates:** Final, see Item 8 below.

- 8. Fiscal Implications:** The substitute creates a new Class 5 felony for any parent, guardian, or other person who is 18 years of age or older and is responsible for the care of a child under the age of 18 whose willful act or omission causes or enables that child to gain possession of a firearm (i) after having received notice of a preliminary determination that the child poses a threat of violence or physical harm to self or others or (ii) when such parent, guardian, or other person responsible for the care of the child knows or reasonably should know that such child has charges pending for or has been convicted or adjudicated delinquent of a violent juvenile felony. For Class 5 felonies, convicted individuals are subject to a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

According to the Virginia Criminal Sentencing Commission (VCSC), by creating a new felony offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing data do not provide sufficient detail to estimate the number of new felony convictions that could result from enactment of the proposal; therefore, 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 1, 2023 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

Additionally, 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 \$5.00 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 2023), the estimated total state support for local jails averaged \$45.76 per inmate, per day in FY 2022.

According to the Department of Juvenile Justice (DJJ), the proposal is not expected to impact direct care bed space needs nor the bed space needs of juvenile detention facilities.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, state and local law enforcement agencies, Department of Juvenile Justice, Commonwealth's Attorneys, Public Defenders, local and regional jails.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.