

Department of Planning and Budget 2021 Fiscal Impact Statement

1. Bill Number: HB1992H1

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Murphy

3. Committee: Committee on Public Safety

4. Title: Purchase, possession of firearms following conviction for assault and battery of a family member.

5. Summary: This proposal prohibits a person who has been convicted of assault and battery of a family or household member from purchasing, possessing, or transporting a firearm. A person who violates this provision would be guilty of a Class 1 misdemeanor. Instead of having the same meaning as in §16.1-228, as proposed in the introduced bill, the substitute changes the definition of “family or household member” to mean (i) the person's spouse, whether or not he resides in the same home with the person; (ii) the person's former spouse, whether or not he resides in the same home with the person; (iii) the person's parents, stepparents, or guardian, regardless of whether such persons reside in the same home with the person; (iv) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time; or (v) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

6. Budget Amendment Necessary: Yes. Item 402.

7. Fiscal Impact Estimates: Preliminary. See below.

8. Fiscal Implications: The proposal adds § 18.2-308.1:8 (purchase, possession, or transportation of firearm following an assault and battery of a family or household member) to the Code of Virginia. Under the proposed legislation, any person who knowingly and intentionally purchases, possesses or transports a firearm following a misdemeanor conviction for an assault and battery of a family or household member or a substantially similar offense under the laws of any other state or of the United States when the offense occurred on or after July 1, 2021, would be guilty of a Class 1 misdemeanor.

The proposal would expand the applicability of several existing felony offenses to include offenders prohibited from possessing or transporting a firearm under the proposed § 18.2-308.1:8. However, according to the Virginia Sentencing Commission, existing data sources do not contain sufficient detail to estimate how many felony convictions would result from enactment of the proposal. However, offenders may be sentenced similarly to those who are currently convicted of a felony under the existing provisions. Offenders convicted of the

proposed Class 1 firearm misdemeanor who accumulate three or more firearm convictions could be found guilty of a Class 6 felony under § 18.2-311.2 (third conviction of firearm offenses).

However, based on the fiscal impact analysis conducted by the Virginia Criminal Sentencing Commission, from FY 2015 through FY 2020 no felony convictions from third or subsequent firearm violations resulted in a prison sentence. 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 56, 2020 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill. 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 and \$12.00 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 2020), the estimated total state support for local jails averaged \$34.59 per inmate, per day in FY 2019.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Department of Juvenile Justice, Local and regional jails, Local law enforcement agencies, Courts, Commonwealth's Attorneys, and Public Defenders Offices.

10. Technical Amendment Necessary: No

11. Other Comments: None