

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: HB2141

House of Origin Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. Patron: VanValkenburg

3. Committee: Committee Referral Pending

4. Title: Owners of firearms; use of firearm by minor in commission of crime cause bodily injury; penalty.

5. Summary: Provides that if the owner of a firearm allows a minor to possess it as authorized by law and the minor uses the firearm in the commission of a crime or to intentionally or with gross negligence cause bodily injury to himself or another person, the owner of the firearm is guilty of a Class 1 misdemeanor. If the owner knows or should reasonably know that a minor is in close proximity to his firearm in such a manner as to allow the minor to possess or transport the firearm in violation of § 18.2-308.7, and the minor uses the firearm in the commission of a crime or to cause bodily injury to himself or another person, such owner is guilty of a Class 1 misdemeanor. If the owner knows or reasonably should have known that such minor has been charged with, been convicted of, or been adjudicated delinquent of a crime or violence, or has been the subject of a school-initiated threat assessment, the owner is guilty of a Class 5 felony.

6. Budget Amendment Necessary: Yes. Item 404.

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

8. Fiscal Implications: The proposed legislation creates two new Class 1 misdemeanor crimes. 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 misdemeanant 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.

The proposed legislation also creates a new Class 5 felony, which is punishable by 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 General District Court Case Management System (CMS) data from the Virginia Criminal Sentencing Commission for fiscal years 2017 through 2022, 1,548 offenders were convicted of a Class 1 misdemeanor for reckless handling of a firearm. Of these, 33.7 percent were sentenced to local-responsible (jail) terms for a median sentence of one month, and the remaining offenders did not receive an active jail term after sentencing. Eight offenders during this time period were convicted of leaving a loaded, unsecured firearm in such a manner so as to endanger a child. Of these, six were convicted while the offense was a Class 3 misdemeanor (punishable by fine) and two were convicted after it was increased to a Class 1 misdemeanor. One of those offenders received a jail term of 24 months for multiple violations while the other did not receive an active term of incarceration to serve after sentencing.

According to Circuit Court CMS data for the same time period, 48 offenders were convicted of a Class 6 felony for the reckless handling of a firearm causing serious bodily injury. It was the most serious offense for 13 offenders. Of those, three offenders were sentenced to jail terms with a median sentence of five months, four were sentenced to prison terms with a median sentence of 1.8 years, and the remainder did not receive an active term of incarceration to serve after sentencing.

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.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.