

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: HB36

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

2. Patron: Willett

3. Committee: Courts of Justice

4. Title: Owner of firearm; use of firearm by minor in an unlawful manner or to cause bodily injury.

5. Summary: The proposal adds § 18.2-56.3 to the Code of Virginia relating to the use or possession of a firearm by a minor in certain circumstances. Under the proposed § 18.2-56.3, if an owner of a firearm allows a minor to possess his firearm, and the minor (i) uses the firearm in an unlawful manner, (ii) possesses the firearm within any school zone or within any building or property deemed as a gun-free zone by a school board, or (iii) uses the firearm 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. The owner of a firearm is also guilty of a Class 1 misdemeanor if the owner knows or reasonably should have known that a minor was in close proximity to his firearm, and the minor uses the firearm as described in any manner described above. This penalty increases to a Class 5 felony if the owner of the firearm knows or reasonably should have known that the minor who possess or uses his firearm in a manner described above has been charged with, convicted of, or adjudicated delinquent of a violent juvenile felony (as defined in § 16.1-228) or has been the subject of a school-initiated threat assessment that classified the risk posed by the minor as moderate, high, or eminent.

6. Budget Amendment Necessary: Yes, Item 390.

7. Fiscal Impact Estimates: See Item 8 below.

8. Fiscal Implications: Since 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. Specifically, this bill would create new Class 5 and Class 6 felonies. According to the General District Court Case Management System (CMS), 53 offenders were convicted of a Class 6 felony under § 18.2-56.1 between FY 2018 to FY 2023. However, this information does 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.

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 expanding applicability of existing misdemeanor offenses. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$5.00 a day for each misdemeanant 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.

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.

- 9. Specific Agency or Political Subdivisions Affected:** State and local law enforcement agencies, Department of corrections, Courts, Commonwealth's Attorneys, Public Defenders, and local and regional jails.
- 10. Technical Amendment Necessary:** No.
- 11. Other Comments:** None.