

## Department of Planning and Budget 2022 Fiscal Impact Statement

**1. Bill Number:** HB1051

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Scott, P.A.

**3. Committee:** Rules

**4. Title:** Protective orders; possession of firearms.

**5. Summary:** Provides that a person who is subject to a protective order may continue to possess a firearm while he is in his place of residence, provided that he is not otherwise prohibited from possessing a firearm. Under current law, such persons must surrender or sell, transfer, etc. any firearms in their possession within 24 hours of being served with a protective order; a violation is a Class 6 felony.

**6. Budget Amendment Necessary:** Indeterminate

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

**8. Fiscal Implications:** The proposed legislation could reduce the number of people convicted of a Class 6 felony for committing firearms violations while being subject to a protective order. For someone convicted of a Class 6 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than five 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. Therefore, the proposed legislation could reduce the number of people sentenced to jail or prison.

According to data from the Office of the Executive Secretary (OES) of the Supreme Court of Virginia, 2,851 protective orders were issued pursuant to § 19.2-152.10 in General District Court in calendar year 2020; 1,480 were issued between January and June 2021. In calendar year 2020 in Juvenile and Domestic Relations (JDR) Court, 503 protective orders were issued pursuant to § 19.2-152.10, and 5,027 were issued pursuant to § 16.1-279.1 (protective orders in cases of family abuse). Between January and June 2021 in JDR Court, 229 orders were issued pursuant to § 19.2-152.10, and 2,560 were issued pursuant to § 16.1-279.1.

According to Circuit Court Case Management System (CMS) data from FY 2016 through FY 2021, there were 65 convictions under 18.2-308.1:4(B) (possessing a firearm while a protective order is in effect). In 32 cases, this was the primary, or most serious offense. Of the 32 offenders, 14 (43.8 percent) received no active term of incarceration to serve after sentencing, 11 (34.4 percent) received a local-responsible (jail) term with a median sentence of three months, and seven offenders (21.8 percent) received a state-responsible (prison) term with a median sentence of one year.

Any potential fiscal impact on the Department of Corrections or local and regional jails cannot be determined at this time. Any potential fiscal impact on the Literary Fund, where civil fines are deposited, is indeterminate at this time.

There is no anticipated fiscal impact as a result of the provisions of this bill on other state agencies.

**9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, Local and regional jails.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.