

## Department of Planning and Budget 2022 Fiscal Impact Statement

**1. Bill Number:** HB1306EH1

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

**2. Patron:** Simon

**3. Committee:** Public Safety

**4. Title:** Removing, altering, etc., serial number on firearm; selling, giving, etc., or possessing firearm.

**5. Summary:** The proposed legislation makes it a Class 1 misdemeanor for any person, firm, association, or corporation to knowingly possess any pistol, shotgun, rifle, machine gun, or any other firearm that has a serial number that has been removed, altered, changed, destroyed, or obliterated in any manner. The bill also makes it a Class 1 misdemeanor for any person, firm, association, or corporation to sell, give, or distribute any pistol, shotgun, rifle, machine gun, or other firearm that has a serial number that has been removed, defaced, altered, changed, destroyed, or obliterated in any manner. The bill also states that its provisions shall not become effective unless reenacted by the 2023 Session of the General Assembly.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Preliminary (see Item 8 below).

**8. Fiscal Implications:** Currently, under § 18.2-311.1, any person, firm, association, or corporation who or which intentionally removes, alters, or defaces (or causes to be removed, altered, or defaced) the name of the maker, model, serial number, or any other mark or identification on a firearm is guilty of a Class 1 misdemeanor. Individuals convicted of certain Class 1 misdemeanor weapons offenses who accumulate three or more such convictions may be found guilty of a Class 6 felony under § 18.2-311.2.

According to General District Court Case Management System (CMS) data from FY 2016 through FY 2021 collected and reviewed by the Virginia Criminal Sentencing Commission, a misdemeanor conviction for violating § 18.2-311.1 was the primary, or most serious, offense in 28 cases sentenced during this time period. Eleven offenders (39.3%) did not receive an active term of incarceration to serve after sentencing. The remaining offenders (60.7%) received local-responsible (jail) terms with a median sentence of approximately 15 days.

Offenders convicted of the proposed Class 1 misdemeanor who accumulate three or more weapon convictions could be found guilty of a Class 6 felony under § 18.2-311.2. According to General District Court CMS data from FY 2016 through FY 2021 collected and reviewed by the Virginia Criminal Sentencing Commission, two offenders were convicted of a felony

under § 18.2-311.2 for a third or subsequent weapon offense. The felony violation of § 18.2-311.2 was not the primary, or most serious, offense in either case. One offender, whose primary offense was possession of a firearm by a convicted felon, received a state-responsible (prison) sentence of four years (two years for the primary offense and two years for the third or subsequent weapon offense). The remaining offender, whose primary offense was attempted robbery, was not sentenced to an active term of incarceration.

Offenders convicted of the Class 1 misdemeanor offense under the proposed § 18.2-311.1 could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more weapon convictions. However, the Virginia Criminal Sentencing Commission states that in the six most recent fiscal years, no offender has been convicted of a felony under § 18.2-311.2 as the primary (or most serious) offense at sentencing (i.e., in each case, the Class 6 felony conviction under § 18.2-311.2 accompanied a more serious felony offense). Therefore, the Virginia Criminal Sentencing Commission reports that the proposal is not expected to impact the state-responsible (prison) bed space needs of the Commonwealth during the six-year window specified by § 30-19.1:4 for legislative impact statements.

Additionally, 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. However, there is not enough information available to reliably estimate the increase in jail population as a result of this proposal. 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 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

**9. Specific Agency or Political Subdivisions Affected:** Law enforcement agencies, Commonwealth's Attorneys, Courts, and local jails.

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

**11. Other Comments:** None.