

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: HB1335

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

2. Patron: Wilt

3. Committee: Rules

4. Title: Possession of firearm, child day center; license exempt facility.

5. Summary: Amends the definition of “child day center,” as defined in § 18.2-308.1 (prohibition against weapons on certain properties), to include centers that are not required to be licensed pursuant to § 22.1-289.030.

6. Budget Amendment Necessary: Yes. Item 404.

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

8. Fiscal Implications: By expanding the definition of “child day center” in the Code, the proposed legislation could potentially expand the applicability of three offenses: (i) possession of a weapon on the property of a child day center, a Class 1 misdemeanor (§ 18.2-308.1(A)); (ii) possession of a firearm designed to expel a projectile by action of an explosion of a combustible material while on the property of a child day center, a Class 6 felony)§ 18.2-308.1(B)); and (iii) possession of a firearm designed to expel a projectile by action of an explosion of a combustible material while within the building of a child day center (§ 18.2-308.1(C)), a Class 6 felony.

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. 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, this proposal could result in an increase in the number of persons sentenced to jail or prison.

According to data from the General District Court Case Management System (CMS) analyzed by the Virginia Criminal Sentencing Commission, between FY 2016 and FY 2021, there were 75 convictions pursuant to § 18.2-308.1(A), and in all 75 cases that offense was the primary, or most serious. Of those cases, 77.3 percent of offenders received no active term of incarceration post-sentencing, and the remaining 22.7 percent received local-responsible (jail) terms, with a median sentence of one month. During that same time period, according to data from the Circuit Court CMS, 33 offenders were convicted under § 18.2-308.1(B), and in 19 of those cases that offense was the most serious. In 73.7 percent of cases,

offenders received no active term of incarceration after sentencing, 21 percent of offenders received a local-responsible (jail) sentence with a median jail term of 4.5 months, and 5.3 percent of offenders were sentenced to state-responsible (prison) terms, with a median sentence of one year. There was one conviction pursuant to § 18.2-308.1(C) during this same period according to data from the Virginia Criminal Sentencing Commission's Sentencing Guidelines Data System, but it was not the most serious offense in that case.

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 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

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 552, 2021 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.

10. Technical Amendment Necessary: No.

11. Other Comments: None.