

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: SB310

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

2. Patron: Ebbin

3. Committee: Judiciary

4. Title: Plastic firearms and unfinished frames, etc.; manufacture, import, sale, transfer, etc., penalties.

5. Summary: The proposed legislation expands the existing Class 5 felony for manufacturing, importing, selling, transferring, or possessing a plastic firearm in Code of Virginia 18.2-308.5 to also include any firearm with a major component that when subjected to inspection by the types of detection devices, including X-ray machines, commonly used at airports for security screening does not generate an image that accurately depicts the shape of the component.

The bill also creates several Class 1 misdemeanors, which are punishable as a Class 4 felony for a second or subsequent offense, making it unlawful (i) for any person to knowingly possess, transport, or receive an unfinished frame or receiver unless the party possessing or receiving the unfinished frame or receiver is a federal firearms importer, manufacturer, or dealer or the unfinished frame or receiver is required by federal law to be, and has been, imprinted with a serial number by a federal firearms importer, manufacturer, or dealer and (ii) for any person to knowingly sell, offer to sell, transfer, or purchase an unfinished frame or receiver unless the party selling, offering to sell, transferring, or purchasing the unfinished frame or receiver is a federal firearms importer, manufacturer, or dealer or the unfinished frame or receiver is required by federal law to be, and has been, imprinted with a serial number by a federal firearms importer, manufacturer, or dealer. The provisions related to the prohibition for possessing, transporting, or receiving an unfinished frame or receiver have a delayed effected date of January 1, 2023.

6. Budget Amendment Necessary: Yes, Item 404.

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

8. Fiscal Implications: Expanding the existing Class 5 felony for manufacturing, importing, selling, transferring, or possessing a plastic firearm may increase the number of convictions. For someone convicted of a Class 5 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than ten 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 the

Circuit Court Case Management System (CMS) for fiscal year (FY) 2016 through FY2021, there were no convictions under § 18.2-308.5 during the most recent six-year period.

By creating several Class 1 misdemeanors, which are punishable as a Class 4 felony for a second or subsequent offense, the proposed legislation could also increase the number of Class 1 misdemeanors and the number of Class 4 felony convictions. 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 4 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than two years nor more than ten years, and a fine of not more than \$100,000. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison. The Virginia Criminal Sentencing Commission (VCSC) reports that data are insufficient to determine the number of new felony convictions that may result from enactment of the proposal.

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 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.

According to the Department of Juvenile Justice (DJJ), the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined, and DJJ also reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Corrections; Department of Juvenile Justice; Local and regional jails; Courts; Commonwealth Attorneys; Public Defenders.

- 10. Technical Amendment Necessary:** No

- 11. Other Comments:** The bill is identical to HB399.