



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1624 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Tata)

Date Submitted: 2/20/01

LD #: 01-1028948

Topic: Weapons concealed by disguise

Proposed Change:

Amends subsection A of §18.2-308.1 such that a person carrying a knife other than a pocket knife having a folding metal blade of less than three inches or a weapon designated in subsection A of §18.2-308 other than a firearm while on school property will be guilty of a Class 1 misdemeanor. Based on penalty modifications under §18.2-311.2, if the person has two prior convictions under Article 4, 5, 6, or 7 of Chapter 7 of Title 18.2, the new offense is punishable as a Class 6 felony.

Current Practice:

As currently written, subsection A of §18.2-308.1 prohibits any person, with certain exceptions, from possessing a stun weapon or taser, knife with a metal blade three inches or longer, or other weapon described in §18.2-308(A) while on school property, on property where a school-sponsored activity is taking place, or on a school bus. Possessing a weapon other than a firearm on school property is a Class 1 misdemeanor for the first or second conviction, but under §18.2-311.2, a third conviction for misdemeanor violation of Article 4, 5, 6, or 7 of Chapter 7 of Title 18.2 becomes a Class 6 felony.

Based on the first nine months of 2000 Local Inmate Data System (LIDS) data, there were four offenders convicted of the misdemeanor provision of §18.2-308.1(A) who served time in jail awaiting trial or an active term of incarceration after conviction; all of those offenders received a local-responsible (jail) term with sentences of one month or less. Although there were no felony convictions for a third or subsequent violation of §18.2-308.1(A) in FY1997 and FY1998 Pre/Post-Sentence Investigation (PSI) data, the LIDS database reports that three offenders were convicted of this felony in the first nine months of CY2000 (two were sentenced to prison; one of those offenders, who received a six-year sentence, was also convicted of several other offenses).

Convictions under subsection A of §18.2-308.1 are not covered by the sentencing guidelines as the primary offense but may augment the guidelines recommendation if a covered offense is the most serious at conviction.

Impact of Proposed Legislation:

Proposed changes to §18.2-308.1(A) may have an impact on state-responsible (prison) beds. The proposal expands the types of weapons that are prohibited on school property. However,

criminal justice databases available to the Commission do not contain information on the number of incidences that may be affected by the proposal. Therefore, the magnitude of the expected impact cannot be computed from existing data sources.

No adjustment to the sentencing guidelines would be necessary under the proposal.

Pursuant to §30-19.1:4, the estimated amount of the necessary appropriation cannot be determined.

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