



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1140

(Patron – Stolle)

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LD #: 03-0614536

Topic: Possession of firearms, stun weapons or tasers by convicted felons

Proposed Change:

The proposal expands § 18.2-308.2 to make it unlawful for any convicted felon to possess a concealed stun weapon or taser as defined by § 18.2-308.1 when not on his own property. Violation is punishable as a Class 6 felony.

Currently, it is a Class 6 felony for a convicted felon to possess a firearm or to carry in a concealed fashion any other weapon described in § 18.2-308(A). Felons who possess a firearm are subject to a mandatory, minimum penalty of two or five years, depending on the nature of the offender's prior record. No mandatory, minimum penalty applies when a felon possesses a concealed weapon that is not a firearm.

Current Practice:

Based on fiscal year (FY) 2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, 15 felons were convicted of possessing a concealed weapon other than a firearm. Of these, 2 (13%) received probation without an active term of incarceration, 6 (40%) were sentenced to a local-responsible (jail) term, and 7 (47%) were sentenced to a state-responsible (prison) term with a median sentence of 1.5 years.

Background Sentencing Information

Felony Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State-Responsible Sentence
Convicted felon (non-violent) possess/transport firearm (§ 18.2-308.2(A))	209	8%	3%	89%	2 yrs.
Convicted felon (violent) possess/transport firearm (§ 18.2-308.2(A))	84	10%	0%	90%	5 yrs.
Convicted felon possess concealed weapon other than firearm (§ 18.2-308.2(A))	15	13%	40%	47%	1.5 yrs.

Data Source: FY2000 and FY2001 Pre/Post-Sentence Investigation (PSI) database

Convictions under § 18.2-308.2(A) are covered by the sentencing guidelines as the primary offense in a sentencing event.

Impact of Proposed Legislation:

By expanding the types of weapons convicted felons may not possess, the proposed changes to § 18.2-308.2 may have an impact on state-responsible (prison) beds. However, criminal justice databases available to the Commission do not contain information on the number of incidences involving stun weapons or tasers. 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 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.