



## Impact Analysis on Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### **Senate Bill No. 1067** **Amendment in the Nature of a Substitute** ***(Patron Prior to Substitute – Edwards)***

**Date Submitted:** 2/1/2005

**LD #:** 05-5516728

**Topic:** Dispositions for delinquent juveniles

#### **Proposed Change:**

The proposal amends § 16.1-278.8 to allow a judge to commit a juvenile adjudicated for a violation of § 18.2-308.7 (possession of a handgun or assault firearm by a person under the age of 18) to the Department of Juvenile Justice (DJJ) if the juvenile has a prior adjudication for an offense that would be a Class 1 misdemeanor if committed by an adult and if the liberty of the juvenile constitutes a clear and substantial threat to the life or health of the juvenile or others.

Violation of § 18.2-308.7 is punishable as a Class 1 misdemeanor for the first or second conviction and as a Class 6 felony for any third or subsequent conviction. Existing *Code* specifies that a juvenile is eligible for commitment to DJJ only if he is adjudicated for a felony, has a prior felony adjudication, or has accumulated a total of four Class 1 misdemeanor adjudications.

#### **Analysis:**

According to the fiscal year (FY) 2004 Juvenile Tracking System (JTS), there were 11 juveniles seen as intakes in DJJ's court service units for misdemeanor violation of § 18.2-308.7 who also had a prior intake for a Class 1 misdemeanor.

#### **Impact of Proposed Legislation:**

The proposal changes the list of crimes for which a juvenile may be committed to DJJ. As such, the proposal will have no impact on the state-responsible (prison) or local-responsible (jail) bed space needs. In addition, the proposal will not require a change in the sentencing guidelines.

The Department of Juvenile Justice (DJJ) reports that, if the proposal is enacted, the minimum confinement assigned under the Department's Length of Stay (LOS) guidelines will remain 3 to 6 months for a misdemeanor violation of § 18.2-308.7 and 6 to 12 months for a felony violation. Although the penalty for violation of § 18.2-308.7 does not change under the proposal, the ability of a judge to commit a juvenile offender does, as a juvenile adjudicated a delinquent for this misdemeanor would be eligible for commitment under certain circumstances. DJJ expects the proposal to result in additional commitments to the state's Juvenile Correctional Centers (JCCs), and estimates that judges will commit approximately 58% of such youths adjudicated for this misdemeanor, based on cases in which a judge determines that the liberty of the juvenile

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The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.

constitutes “a clear and substantial threat to the life or health of the juvenile or others.” This determination will occur on an individual basis.

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and is \$204,796 for periods of commitment to the custody of the Department of Juvenile Justice.**

**Assumptions underlying the analysis include:**

1. All juveniles with intakes for § 18.2-308.7 and a prior delinquent adjudication for a Class 1 misdemeanor, who are otherwise ineligible for commitment under current law, would be adjudicated guilty and could be committed to the DJJ under the proposal. This number was adjusted to reflect the rate at which juveniles are held on a pre-dispositional basis; for those charged with § 18.2-308.7 with no accompanying felony charge, this rate was 58%. This rate was used in the analysis because the proposed language specifying that commitment is based on a determination that there is “a clear and substantial threat to the life or health of the juvenile or others” is substantially similar to the statutory language used to determine whether a juvenile should be held pre-dispositionally.
2. All new commitments under the proposal would have a LOS guidelines assignment of 3-6 months and would serve the average time actually served by those committed under that assignment (4.85 months).
3. Cost per JCC bed was assumed to be \$217 per day (annualized to be \$79,355) as reported by the Department of Juvenile Justice. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.*

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