



## **Fiscal Impact Statement for Proposed Legislation**

### ***Virginia Criminal Sentencing Commission***

#### **House Bill No. 1577 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Cline)**

**LD #:** 06-4889268

**Date:** 3/7/2006

**Topic:** Carrying a concealed handgun

#### **Fiscal Impact Summary:**

- **State Adult Correctional Facilities:**  
Cannot be determined, likely to be small
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

- **Juvenile Correctional Centers:**  
None (\$0)
- **Juvenile Detention Facilities:**  
None (\$0)

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#### **Summary of Proposed Legislation:**

The proposal amends § 18.2-308 and repeals § 15.2-915.3 relating to carrying a concealed handgun permits.

The proposal eliminates the expiration date for concealed handgun permits for Virginia residents. Instead, the Department of State Police (VSP) shall conduct a state and national criminal background check on all valid concealed handgun permits annually. Upon receipt of a record of the arrest, conviction or occurrence of any event that would disqualify a person from obtaining a concealed handgun permit, VSP will notify the person in writing at the last known address. The disqualified person shall immediately surrender the permit to VSP; the permit revocation may be appealed. Any person knowingly in possession of a revoked concealed handgun permit while possessing a concealed handgun is guilty of a Class 6 felony. These changes will become effective July 1, 2007 if funds are appropriated during the 2007 Session of the General Assembly.

The nonresident concealed handgun permit is still limited to a five-year period, although, under the proposal, the permit would not expire for persons with active-duty military deployment outside of the county or city of residence; under those circumstances, the five-year permit would expire 90 days following the end date of the deployment. This change will become effective July 1, 2007 if funds are appropriated during the 2007 Session of the General Assembly.

Under the proposal, a person who moves from the address shown on the concealed handgun permit is to inform the issuing court of the change of address within 30 days. The court is to issue a new permit and provide VSP with the new permit information. This change will become effective July 1, 2007 if funds are appropriated during the 2007 Session of the General Assembly.

Currently, § 18.2-308 defines several crimes that would apply once a permit is issued. Under subsection A, carrying any pistol, revolver, etc., hidden from common observation is a Class 1 misdemeanor for a first offense, a Class 6 felony for a second offense, and a Class 5 felony for a third

offense. The proposal states it would be a Class 1 misdemeanor for a person carrying a concealed handgun, who is detained by a law enforcement officer, to fail to inform the officer of the possession, secure the weapon at the officer's direction, or allow the officer to secure the weapon for the duration of the contact. In addition, under subsection J1 any person permitted to carry a concealed handgun who is under the influence of alcohol or illegal drugs while carrying such handgun in a public place shall be guilty of a Class 1 misdemeanor.

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**Analysis:**

According to fiscal year (FY) 2003 and 2004 Local Inmate Data System (LIDS) data, there were 703 cases involving convictions for carrying a concealed weapon, first offense. Of these cases, 9% were sentenced to no active term of incarceration; the remaining 91% were sentenced to a local-responsible (jail) term with a median sentence of one month incarceration. During the same time period, there were 35 cases involving convictions for carrying a concealed weapon, second offense. Of the 33 cases for which sentencing information is available, 3% were sentenced to no active incarceration period; over two-thirds (67%) were sentenced to a local-responsible (jail) term with a median sentence of 3 months; 30% were sentenced to a state-responsible (prison) term with a median sentence of 2 years. FY2003 and FY2004 LIDS data also reveal that there were 9 cases involving convictions for carrying a concealed weapon, third offense. Six of these cases were sentenced to a local-responsible (jail) term with a median sentence of 6 months; and 3 cases were sentenced to a state-responsible (prison) term with a median sentence of 5 years.

During the same time period there was one offender who was sentenced to three months incarceration for carrying a handgun in public without a permit while under the influence (§ 18.2-308(J1)).

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By creating a new felony under § 18.2-308, the state-responsible (prison) bed space needs may increase. Although, the databases available to the Commission are insufficiently detailed to identify the number of convictions that may result under the newly added elements of the proposal, the impact is likely to be small because the combination of the person knowing that their concealed handgun permit has been revoked, carrying the permit and carrying a concealed handgun should not occur often. Therefore, while the magnitude of the increase cannot be determined, it is likely to be small.

**Local adult correctional facilities.** By expanding the applicability of existing misdemeanors under § 18.2-308, the local-responsible (jail) bed space needs may increase; however, the magnitude of the increase cannot be determined.

**Adult community corrections programs.** The proposal may have an impact on community corrections programs, but the magnitude cannot be determined.

**Virginia's sentencing guidelines.** Convictions under § 18.2-308 are not covered by the sentencing guidelines as the primary (most serious) offense at conviction, but may appear as additional offenses that augment the guidelines recommendation. No adjustment to the guidelines is necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation for periods of imprisonment in state adult correctional facilities cannot be determined and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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