



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 15

(Patron – Marsh)

LD #: 06-2304756

Date: 12/2/2005

Topic: Criminal history record checks to obtain firearm from a gun show vendor

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

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

Summary of Proposed Legislation:

This proposal amends § 54.1-4200 and adds §§ 18.2-308.2:4 and 54.1-4201.2 to establish requirements for criminal history record checks for persons purchasing guns at firearms shows. Changes to § 54.1-4200 clarify the definition of a “firearms show” by explicitly including the parking areas of such premises and by specifying a minimum number of firearms to be exchanged in order to qualify as a show (25 or more). Definitions of a “firearms show vendor” and a “promoter” are added to § 54.1-4200. The proposed § 54.1-4201.2 specifies the duties of a gun show promoter to include 1) requiring participating gun show vendors to present photo identification, 2) maintaining identifying information on participating vendors, 3) providing notice to vendors regarding the requirements for criminal history checks for gun purchasers, 4) making available to vendors one or more licensed gun dealers to conduct the criminal information checks during the show as prescribed, and 5) posting in a prominent location at the firearms show a notice of the requirement for a criminal history check to purchase a gun.

The proposed § 18.2-308.2:4 establishes a Class 2 misdemeanor for intentionally requesting or seeking to obtain criminal record information under false pretenses or intentionally disseminating such information except as authorized by law, as well as a Class 5 felony for making a materially false statement on the criminal history form while at a gun show and a Class 6 felony for intentionally transferring a gun at a firearms show in violation of the proposed provisions.

Currently, the responsibilities of gun show promoters are prescribed in § 54.1-4201.1, and are limited to maintaining a list of vendors and other exhibitors that must be transmitted to the State Police and local law enforcement 72 hours prior to the show, as well as a similar list of those who actually transacted business within 72 hours after the show. Willful violation is currently punishable as a Class 3 misdemeanor.

Although current law does not explicitly identify firearm show vendors, the proposal largely parallels §18.2-308.2:2 which requires criminal history record checks for transfers by licensed firearm dealers.

Analysis:

Based on fiscal year (FY) 2003 and 2004 Local Inmate Data System (LIDS) data, 29 offenders held pre- or post-trial in jail were convicted under § 18.2-308.2:2(K) of giving a false statement on the consent form. Three of these offenders (10%) were sentenced to probation, while 17 (59%) received local-responsible (jail) terms with a median sentence of just under two months. The remaining nine offenders (31%) received state-responsible (prison) terms with a median sentence of just over three years. One gun dealer was convicted for the illegal sale or transfer of a firearm under § 18.2-308.2:2(L); this offender was sentenced to probation. No misdemeanor convictions for obtaining criminal history record information under false pretenses or unauthorized dissemination of criminal history record information were found. Likewise, no cases involving improper notification of a gun show by a promoter (§ 54.1-4201.1) were identified in LIDS data; however, as the maximum penalty for this offense is a fine, offenders charged with this crime would only appear in the LIDS data if there were a more serious accompanying offense.

Impact of Proposed Legislation:

State adult correctional facilities. Although the proposal may increase the need for state-responsible (prison) bed space, this increase cannot be quantified. The bill proposes requirements and penalties that are not specifically defined in the *Code of Virginia*. No current criminal justice database maintains information about firearm show vendors or the number of violations of the proposed § 18.2-308.2:4 that may arise from purchases or attempted purchases of firearms at gun shows (e.g., false statements on the consent form) or the number of violations by gun show promoters under the proposed § 54.1-4201.1.

Local adult correctional facilities. The proposal may also increase the need for local-responsible (jail) bed space; however, this increase cannot be quantified with existing data.

Adult community corrections programs. Similarly, the program needs for both local and state community corrections may increase under the proposal, but this increase cannot be quantified with existing data.

Virginia's sentencing guidelines. The new offenses under the proposed § 18.2-308.2:4 are not covered by the sentencing guidelines, 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 (DJJ) 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 cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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