



## Impact Analysis on Proposed Legislation

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### Virginia Criminal Sentencing Commission

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#### House Bill No. 2405 (Patron – Athey)

LD#: 07-4453220

Date: 1/3/2007

Topic: Carrying concealed weapons

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
None (\$0)
- **Adult Community Corrections Resources:**  
None (\$0)

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

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#### Summary of Proposed Legislation:

The proposal amends § 18.2-308 to make it lawful to carry a concealed pistol, revolver or handgun without a permit. The proposal specifies that the person carrying the concealed firearm must inform a law enforcement officer of the weapon or secure it as directed by the officer whenever he is detained by an officer acting in his official capacity. Failure to inform the officer or secure the firearm as instructed would be Class 1 misdemeanor for the first offense, Class 6 felony for a second offense, and a Class 5 felony for a third or subsequent offense.

Carrying a concealed knife, flailing instrument, throwing star or any like weapon would continue to be a Class 1 misdemeanor for the first offense, Class 6 felony for a second offense and a Class 5 felony for a third or subsequent offense. Also carrying a concealed handgun while under the influence of alcohol or illegal drugs would continue to be a Class 1 misdemeanor.

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#### Analysis:

According to the CY2004 and CY2005 Local Inmate Data System (LIDS), there were 804 offenders held pre- or post-trial in jail who were convicted of possessing a concealed weapon. The majority of those held in jail were sentenced to an active term of incarceration. Of the 804 offenders, nearly all (92%) were charged with the Class 1 misdemeanor (first offense). Among offenders charged with the misdemeanor, the majority (76%) were given a local-responsible (jail) term, for which the median sentence was 1.3 months.

When sentenced for the Class 6 felony (second offense) for possessing a concealed weapon (53 offenders), approximately half (45%) of the offenders were given a state-responsible (prison) term (median sentence of 3 years. Only nine offenders were sentenced for the Class 5 felony (third or subsequent offense); for the four offenders convicted of this crime who were committed to prison, the median sentence was 1.8 years.

The number of these cases involving firearms (versus concealed knives or other weapons) is unknown.

There were no offenders in the LIDS data convicted of failing to carry a concealed weapon's permit, being under the influence while carrying a concealed weapon, or possessing a handgun after the concealed weapon's permit was revoked. No convictions for these permit-related offenses could be found in the CY2004-CY2005 Pre/Post-Sentence Investigation (PSI) data.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By relaxing restrictions on concealed firearms, the proposal is expected to result in fewer felony convictions. The proposal, however, includes penalties for persons who fail to inform a law enforcement officer of a concealed weapon (or secure a firearm as instructed) when they are detained. While the proposal is expected to reduce the future state-responsible (prison) bed space needs of the Commonwealth, the magnitude of the impact cannot be quantified.

**Local adult correctional facilities.** The proposal may also decrease local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

**Adult community corrections resources.** The proposal is expected to decrease the need for adult community corrections resources, since the proposal will likely reduce the number of misdemeanor and felony convictions under § 18.2-308.

**Virginia's sentencing guidelines.** Convictions under § 18.2-308 are not covered by the sentencing guidelines as the primary (or most serious) offense in a case; however, convictions for these crimes may augment the guidelines recommendation if a covered offense is the most serious at sentencing. No adjustment to the guidelines would be necessary under the proposal.

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

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

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**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 \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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