



## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### House Bill No. 932

#### *Amendment in the Nature of a Substitute (Patron Prior to Substitute – Gilbert)*

LD#: 08-0844516

Date: 1/24/2008

Topic: Reckless handling of firearms

#### 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:

The proposal adds subsection A1 to § 18.2-56.1. The proposal would make it a Class 6 felony to recklessly handle any firearm in a manner so gross, wanton and culpable as to show a reckless disregard for human life and causes serious bodily injury to another person resulting in permanent and significant physical impairment. Currently, under § 18.2-56.1(A), recklessly handling a firearm so as to endanger the life, limb or property of another is a Class 1 misdemeanor.

#### Analysis:

Based on calendar year (CY) 2005 and CY2006 data from the Local Inmate Data System (LIDS), 116 offenders held pre- or post-trial in jail were convicted of a Class 1 misdemeanor for reckless handling of a firearm (§ 18.2-56.1(A)) as the most serious charge at conviction. While 18% of these offenders were sentenced to probation without an active term of incarceration, the majority (78%) were sentenced to a local-responsible (jail) term. For offenders who were sentenced to jail, the median sentence length was two months. The remaining four offenders (4%), sentenced for multiple counts of this offense or other misdemeanor charges, were given state-responsible (prison) terms. Misdemeanor data do not provide sufficient detail to identify which cases, if any, resulted in serious bodily injury.

#### Impact of Proposed Legislation:

**State adult correctional facilities.** By increasing the penalty for reckless handling of a firearm to a felony in certain circumstances, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the impact of the proposal on prison bed space cannot be determined.

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

**Adult community corrections resources.** Raising a crime from a Class 1 misdemeanor to a Class 6 felony may decrease the demand for local community-based probation services and increase the need for state community corrections resources. The *Code of Virginia*, however, allows judges to utilize local community-based probation programs for Class 5 and Class 6 felons as well as misdemeanants. Data are not available to estimate the impact on local or state community corrections resources that may result from the proposal.

**Virginia's sentencing guidelines.** As a new felony, violations of the proposed § 18.2-56.1(A1) would not be covered by the sentencing guidelines as the primary (most serious) offense. A conviction under this provision, however, could augment the guidelines recommendation if the most serious offense at sentencing is a covered offense. No adjustment to the sentencing guidelines would be 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.

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**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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