



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 684 (Patron – Miller, J.H.)

LD #: 10101987

Date: 12/18/2009

Topic: Butterfly knife as a concealed weapon

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal expands § 18.2-308 to make it a Class 1 misdemeanor for any person to carry about his person, hidden from common observation, a butterfly knife. A second violation of this section would be punishable as a Class 6 felony; a third or subsequent violation would be punishable as a Class 5 felony. Under the current statute, in addition to pistols and revolvers, it is illegal to carry a concealed dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, etc.

Analysis:

There were 2,961 convictions reported in fiscal year (FY) 2008 and FY2009 General District Court Automated Information System (CAIS) data for misdemeanor violations of § 18.2-308. One-fourth (25.7%) received a local-responsible (jail) term, for which the median sentence was one month. Three-fourths (74.3%) of the offenders convicted were given no active term of incarceration to serve.

According to fiscal year (FY) 2007 and 2008 Pre/Post-Sentence Investigation (PSI) data, there were also 27 felony convictions for violations of § 18.2-308 as the primary, or most serious, offense. Twenty-five were convicted of a second violation of carrying a concealed weapon. Of these, 46% of the offenders received a local-responsible (jail) sentence with a median sentence of three months. For the 21% of offenders who were given a state-responsible (prison) term, the median sentence was one year. The remaining 33% of offenders received no active period of incarceration. Two of the felony convictions were for a third or subsequent violation of carrying a concealed weapon. Both received local-responsible (jail) sentences of 1.7 and 6 months, respectively.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the application of an existing felony offense, the proposal may have an impact on the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. The magnitude of the impact on prison beds cannot be quantified.

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

Adult community corrections programs. Because the proposal could result in convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Convictions under § 18.2-308 are not covered by the sentencing guidelines as the primary (most serious) offense in a sentencing event. However, convictions under this statute may augment the guidelines recommendation if a covered offense is the most serious at sentencing. No adjustment to the guidelines would be necessary as a result of 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. According to the Department of Juvenile Justice (DJJ), 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; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

butterfly01_1987