



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1669

(Patron – McClellan)

LD#: 11102753

Date: 12/20/2010

Topic: Criminal history checks at firearm shows

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 874 of the 2010 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 54.1-4200 and adds provisions relating to purchases at firearms shows. Under the proposed § 18.2-308.2:4, gun show vendors would be required to obtain verification from a licensed firearm dealer that a prospective purchaser is not prohibited from possessing a firearm under state or federal law.

The penalties proposed for firearms show vendors and their prospective buyers parallel existing penalties for licensed dealers and their prospective buyers. Making a materially false statement on a consent form required to purchase a firearm (as specified in § 18.2-308.2:2) is a Class 5 felony. Any person who willfully and intentionally sells, rents, trades, or transfers a firearm in violation of these provisions is guilty of a Class 6 felony. Willfully and intentionally requesting or obtaining criminal history information under false pretenses or unlawfully disseminating criminal history record information is a Class 2 misdemeanor.

In addition, the proposal modifies the definition of “firearms show,” under § 54.1-4200, to include the entire premises, including parking areas. The proposed amendment to § 54.1-4200 also defines the terms “firearms show vendor” and “promoter.” The proposed § 54.1-4201.2 outlines the duties of the promoter in verifying the identities of the vendors and providing each vendor with a notice of statutory obligations, as well as posting a notice at the firearms show that describes the requirement for a criminal history record check. This part of the proposal would also require promoters to make one or more licensed dealers available to firearms show vendors for the purpose of conducting criminal history checks on prospective buyers.

Analysis:

According to fiscal year (FY) 2009 and FY2010 Sentencing Guidelines (SG) data, there were 156 felony convictions under § 18.2-308.2:2(K) for providing false statements on a consent form. Most

(75%) of these offenders were sentenced to probation without an active term of incarceration. Approximately one-fifth (20.5%) of the offenders were sentenced to a local-responsible (jail) term, for which the median sentence was six months. The remaining 4.5% were sentenced to a state-responsible (prison) term. For offenders committed to prison, the median sentence length was 1.3 years.

According to FY2009 and FY2010 Circuit Court Automated Information System (CAIS) data, there were three possible Class 6 felony convictions under § 18.2-308.2:2(L) relating to dealers unlawfully selling or transferring firearms. All three of these offenders were sentenced to probation.

According to FY2009 and FY2010 General District Court CAIS data, there were three possible Class 2 misdemeanor convictions under § 18.2-308.2:2(F) for obtaining criminal history information under false pretenses; two of these offenders received probation and the third was sentenced to serve 20 days in jail. There was also one misdemeanor conviction for unlawfully disseminating criminal history information and this offender was sentenced to probation.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of existing felonies, 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. Because the proposal could result in additional felony offenders on community supervision, an impact on state community corrections resources is possible. The full cost of the impact on community corrections cannot be determined.

Virginia's sentencing guidelines. The guidelines cover convictions for making a false statement on a firearm consent form (§ 18.2-308.2:2(K)). The guidelines do not cover convictions relating to dealers unlawfully selling or transferring firearms (§ 18.2-308.2:2(L)) when this crime is the primary (or most serious) offense in a case; however, a conviction under this section (as an additional offense) could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice, the proposal is not expected to increase juvenile correctional center 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 cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 874 of the 2010 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.