



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1109

(Patron – Ebbin)

LD #: 13103257

Date: 1/2/2013

Topic: Prohibiting the sale, etc., of firearms to certain persons

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:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

Currently, § 18.2-308.2:1 of the *Code of Virginia* makes it a Class 6 felony to sell, barter, give, or furnish a firearm to a person known to be prohibited from possessing or transporting certain firearms because the individual:

- has been acquitted by reason of insanity and committed to the Commissioner of Behavioral Health and Developmental Services for certain offenses (§ 18.2-308.1:1);
- has been convicted of a felony, or adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense (§ 18.2-308.2);
- is not a citizen of the United States and is not lawfully present in the United States (§ 18.2-308.2:01(B)); or
- is under 18 years of age (§ 18.2-308.7).

The proposal expands the applicability of this felony to include the sale, etc., of firearms to persons who are currently prohibited from possessing a firearm because they have been found legally incompetent or mentally incapacitated (§ 18.2-308.1:2), have been ordered into involuntary inpatient or outpatient treatment (§ 18.2-308.1:3), or have agreed to voluntary admission after being the subject of a temporary detention order (§ 18.2-308.1:3).

The prohibition would not apply in certain instances, including cases in which the person's right to purchase, possess, or transport a firearm has been restored.

Analysis:

According to the Circuit Court Automated Information System (CAIS) for fiscal years 2011 and 2012, 15 offenders were convicted of selling, bartering, giving, or furnishing a firearm to a person known to be prohibited from possessing or transporting a firearm under § 18.2-308.2:1. This charge was the primary, or most serious, offense in six of the cases. Five of the six offenders did not receive an active

term of incarceration to serve after sentencing. The remaining offender was sentenced to a state-responsible (prison) term of one year.

Impact of Proposed Legislation:

State adult correctional facilities. Since the proposal would increase the applicability of an existing felony offense, the proposal could increase the state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the magnitude of the impact cannot be determined.

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

Adult community corrections programs. Because the proposal could result in felony 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 determined.

Virginia's sentencing guidelines. Felony violations of § 18.2-308.2:1 are not covered by the sentencing guidelines when this crime is the primary (most serious) offense. A conviction for such an offense, however, 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 may have an impact on juvenile correctional center bed space needs. However, the actual impact on juvenile correctional center bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that, while the proposal may have an impact on juvenile detention bed space needs, the actual impact on juvenile detention facilities cannot be determined.

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 3 of the Acts of Assembly of 2012, Special Session I, 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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