



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1232 (Patron – Ebbin)

LD#: 13103748

Date: 1/14/2013

Topic: Criminal history record check required to transfer firearm

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:

The proposal adds § 18.2-308.2:4, relating to criminal history record checks for the transfer of firearms, to the *Code of Virginia*. Under the proposal, any person who transfers a firearm must first obtain verification from a licensed firearms dealer that a prospective purchaser is not prohibited from possessing a firearm under state or federal law. Essentially, the proposal expands requirements relating to criminal history record checks for firearms purchases to include additional types of transfers, such as gun shows and private transfers.

The proposal states that the definitions and provisions of § 18.2-308.2:2 regarding criminal history record checks would apply to the proposed § 18.2-308.2:4. Currently, under § 18.2-308.2:2(K), making a materially false statement on the criminal history consent form is a Class 5 felony. Under the proposal, willfully and intentionally selling, renting, trading, or transferring a firearm to a person without obtaining the verification required by the proposed statute would be a Class 1 misdemeanor.

Analysis:

Available data do not contain sufficient detail to determine the number of cases that would be affected by the proposal. However, affected offenders may be sentenced similarly to those who are currently convicted under § 18.2-308.2:2(K).

According to the Sentencing Guidelines Database for fiscal year (FY) 2011 and FY2012, there were 116 felony convictions under § 18.2-308.2:2(K) for providing false statements on a consent form. This offense was the primary, or most serious, offense in 107 of the cases. The majority (74.8%) of these offenders did not receive an active term of incarceration to serve after sentencing and 20.6% of the offenders were sentenced to a local-responsible (jail) term, for which the median sentence was five

months. The remaining 4.7% were sentenced to a state-responsible (prison) term. For offenders committed to prison, the median sentence length was 1 year and 9 months.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the circumstances in which an individual must submit a criminal history consent form, the proposal may result in additional felony convictions for making a false statement on the form. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data are not sufficiently detailed to estimate how many additional felony convictions may result if the proposal is enacted. Therefore, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. Similarly, the magnitude of the impact on local-responsible (jail) bed space needs cannot be quantified.

Adult community corrections resources. The potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-308.2:2(K) are covered by the current sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. The Department of Juvenile Justice reports that the proposal's impact on bed space needs for juvenile correctional centers cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact on juvenile detention center bed space needs 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 the 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.