



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 377

Amendment in the Nature of a Substitute (Patron Prior to Substitute – Reeves)

LD#: 14104266

Date: 1/22/2014

Topic: Sale or transfer of firearms to dealers

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **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 § 18.2-308.2:4, relating to the sale or transfer of firearms to dealers, to the *Code of Virginia*. Under the proposal, a firearms dealer who is receiving a firearm by sale, transfer, or trade from a person who is not a dealer may choose to obtain a verification check to determine if the firearm has been reported as lost or stolen.

The proposal also establishes procedures by which a firearms dealer can obtain such verification, if he or she elects to do so. These procedures include requiring the person who wishes to sell, transfer, or trade the firearm to present valid photo identification, certain identifying information about the person and the firearm, and consent in writing to have the dealer obtain the verification check. Under the proposal, any person who willfully and intentionally makes a material false statement on the consent form would be guilty of a Class 1 misdemeanor.

The proposal defines a new Class 1 misdemeanor in the *Code*. Pursuant to § 18.2-311.2, however, a third or subsequent Class 1 misdemeanor firearm violation (defined in Article 4, 5, 6, or 7 of Chapter 7 of Title 18.2) is a Class 6 felony.

Analysis:

Existing databases do not provide sufficient detail to identify the number of new convictions likely to result from enactment of the proposal. Offenders convicted of the proposed misdemeanor who accumulate three or more firearm convictions could be found guilty of a Class 6 felony under § 18.2-311.2. According to the Circuit Court Case Management System (CMS)¹ for fiscal year (FY) 2009 through FY2013, eight offenders were convicted of a felony under § 18.2-311.2 for a third or subsequent

¹ Formerly referred to as the Court Automated Information System (CAIS).

firearm offense. The felony firearm charge was the primary, or most serious, offense in four of the cases. While two of these offenders were given a local-responsible (jail) term, for which the median sentence was 1.7 months, the remaining two offenders did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Offenders convicted of the proposed misdemeanor offense could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more firearm convictions. In the five most recent fiscal years, however, no offender convicted of a felony under § 18.2-311.2 received a state-responsible (prison) sentence. Therefore, the proposal is not expected to have an impact on the state-responsible (prison) bed space needs of the Commonwealth during the six-year window specified by § 30-19.1:4 for legislative impact statements.

Local adult correctional facilities. By creating a new Class 1 misdemeanor offense, the proposal may increase local-responsible (jail) bed space needs. Because the number of new convictions resulting from the proposal cannot be determined, the magnitude of the impact on jail beds cannot be estimated.

Adult community corrections programs. The proposal could result in convictions and subsequent supervision requirements for an additional number of offenders and this may increase the need for local and/or state community corrections resources. The number of new convictions likely to result from the proposal cannot be determined; therefore, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-311.2 are not covered by the sentencing guidelines as the primary offense. A conviction under this provision, 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 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 is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.