



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1702

As Enrolled

(Patrons Prior to Enrollment – DeSteph and Lopez)

LD#: Enrolled

Date: 3/11/2015

Topic: Criminal history record checks for firearm transfers

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**

**Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the 2014 Acts of Assembly, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-308.2:2 of the *Code of Virginia*, relating to licensed firearms dealers. Currently, § 18.2-308.2:2 specifies mandatory procedures for dealers who sell, rent, trade, or transfer firearms from their inventories. The proposal would allow firearms dealers who are selling, etc., a firearm that is not part of their inventory to require prospective purchasers to consent to have the dealer obtain criminal history record information prior to completing the transfer. Under § 18.2-308.2:2(K), making a materially false statement on the consent form is punishable as a Class 5 felony.

The bill also directs the Department of State Police to establish policies and procedures for conducting such background checks.

Analysis:

Existing data sources do not contain sufficient detail to estimate the number of firearm transfers that would be affected by the proposal. However, individuals convicted of a felony for making a false statement on the consent form under the proposal may be sentenced similarly to those convicted under the existing provisions of § 18.2-308.2:2(K). According to fiscal year (FY) 2013 and FY2014 Sentencing Guidelines data, there were 135 felony convictions under § 18.2-308.2:2(K) for making false statements on the criminal history consent form. This offense was the primary, or most serious, offense in 130 of the cases. The majority (70.8%) of these offenders did not receive an active term of incarceration to serve after sentencing. Nearly one-fourth (23.1%) of the offenders received a local-responsible (jail) term, for

which the median sentence was six months. The remaining 6.1% were sentenced to a state-responsible (prison) term. For offenders committed to prison, the median sentence length was 1.25 years.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the circumstances in which an individual may 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. Existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. As a result, the magnitude of the impact on prison bed space needs cannot be quantified.

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 resources. 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 affected cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-308.2:2(K) are covered by the current sentencing guidelines when this crime is the primary, or most serious, offense in a case. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of 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 2 of the 2014 Acts of Assembly, 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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