



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1178 (Patron – Ebbin)

LD#: 15100426

Date: 12/30/2014

Topic: Firearms

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
At least \$569 (less than one bed)
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None (\$0)*
- **Juvenile Detention Facilities:**
None (\$0)*

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal adds or amends numerous statutes in the *Code of Virginia* relating to firearms. First, the proposal would increase the misdemeanor penalty class for certain existing offenses, such as leaving an unsecured firearm in such a manner as to endanger a child under the age of 14, which would increase from a Class 3 misdemeanor to a Class 1 misdemeanor under the proposal. The proposal also expands the applicability of particular misdemeanor firearm offenses.

In addition, the proposal creates several new prohibitions relating to firearms that would be punishable as misdemeanors. For instance, under the proposed § 18.2-308.1:01, any person who sells, rents, trades, or transfers a firearm to another person, except for licensed dealers, would be guilty of a Class 2 misdemeanor. The proposed modifications to § 18.2-308.2:2 would make the purchase of more than one firearm within a 30-day period a Class 1 misdemeanor. This portion of the proposal would restore the limit on handgun purchases to one per month as well as the Class 1 misdemeanor for violation of the purchase limit, which were removed from the *Code* by the 2012 General Assembly. While the prior provision only applied to handguns, this proposal would prohibit the purchase of more than one firearm of any type within a 30-day period.

The proposal also makes several changes to the *Code* relating to unsecured firearms, concealed handgun permits, and local ordinances.

Currently, under § 18.2-311.2, a third or subsequent Class 1 misdemeanor weapons violation (defined in Article 4, 5, 6, or 7 of Chapter 7 of Title 18.2) is punishable a Class 6 felony.

Analysis:

Sentencing data are available for violations of the one handgun per month statute prior to its repeal by the 2012 General Assembly. According to the General District Court Case Management System (CMS) for

fiscal years (FY) 2007 through FY2012, there were six misdemeanor convictions under § 18.2-308.2:2 for purchasing more than one handgun within 30 days. Five of these offenders (83.3%) were not sentenced to an active term of incarceration. One (16.7%) of the offenders was sentenced to a local-responsible (jail) term of one month.

Based on Circuit Court CMS data for the same six-year period, five offenders were convicted of a felony, pursuant to § 18.2-311.2, for purchasing more than one handgun with 30-days (for these offenders, this was the third or subsequent misdemeanor weapons violation). The felony offense was the primary, or most serious, offense in all of the cases. Two of these offenders (40%) were not sentenced to an active term of incarceration. The remaining three offenders were sentenced to a local-responsible (jail) term, for which the median sentence was one month.

A review of FY2009-FY2014 Circuit Court CMS data for all felony convictions resulting from a third or subsequent misdemeanor firearms violation revealed that, during the six-year period, none of the offenders received a state-responsible (prison) sentence.

Impact of Proposed Legislation:

State adult correctional facilities. Offenders convicted of the proposed Class 1 misdemeanor offenses could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more weapons convictions. In the six 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 and expanding several Class 1 and Class 2 misdemeanor offenses, the proposal may increase local-responsible (jail) bed space needs. While existing data sources do not contain sufficient detail to estimate the impact of most of the amendments contained in the proposal, data exists for violations relating to the one-handgun-a-month provision. Specifically, of the 11 felony and misdemeanor convictions between FY2007 and FY2012 involving violations of the one-handgun-a-month provision, four offenders received a local-responsible (jail) term with a median sentence of one month. Thus, restoring the offense to the *Code* is expected to increase the future need for local-responsible (jail) beds. The impact on jail beds for violations of the one-handgun-a-month provision is estimated to be less than one bed by FY2021 (state costs: \$569; local costs: \$838). Since the impact of the other aspects of the proposal on jail bed space needs cannot be determined, this is a minimum estimate.

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.

Assumptions underlying the analysis include:

General Assumptions

1. State and local responsibility is based on § 53.1-20 as analyzed for the Secretary of Public Safety's Committee on Inmate Forecasting in 2014.
2. Cost per jail bed was based on The Compensation Board's FY2012 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$28.04 per day or \$10,242 per year. The local cost was calculated by using the daily expenditure cost of \$73.83 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$41.30 per day or \$15,085 per year. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.*

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