



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 300

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

LD#: 16104588

Date: 1/27/2016

Topic: Carrying a firearm while intoxicated

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

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposed legislation adds § 18.2-287.5 to the *Code* to make it a Class 1 misdemeanor to carry a loaded firearm while intoxicated or under the influence of illegal drugs. Additionally, a person convicted of a violation would be ineligible to apply for a concealed handgun permit for a period of five years.

Currently, under § 18.2-308.012, it is a Class 1 misdemeanor for any person with a permit to carry a concealed handgun to carry a handgun in a public place while under the influence of alcohol or illegal drugs. Aspects of the proposal may overlap with several crimes defined in current *Code*. For example, under § 18.2-287.4, it is currently a Class 1 misdemeanor to carry certain loaded firearms in public places in enumerated jurisdictions. Under § 18.2-282, brandishing or pointing a firearm in a public place is a Class 1 misdemeanor or, if committed within 1,000 feet of a school, a Class 6 felony.

Analysis:

Offenders convicted under § 18.2-287.5 who accumulate three or more weapon convictions could be found guilty of a Class 6 felony under § 18.2-311.2. A review of FY2010-FY2015 Circuit Court CMS data for all felony convictions resulting from a third or subsequent misdemeanor weapon 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 under § 18.2-287.5 could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more weapon convictions.

In the six most recent fiscal years, however, no offender convicted of a felony under § 18.2-311.2 has 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. The proposal may impact local-responsible (jail) bed space needs. However, 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 when this offense is the primary, or most serious, offense in a case. 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 (DJJ), the impact of the proposal on juvenile correctional center 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 is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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