



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2399 (Patron – Lopez)

LD#: 19102530

Date: 12/12/2018

Topic: Firearm transfers by dealers

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
None (\$0) *
- **Juvenile Detention Facilities:**
None (\$0) *

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends § 18.2-308.2:2 of the *Code of Virginia*, relating to the purchase and sale of firearms.

Currently, under § 18.2-308.2:2, licensed firearms dealers must receive a report from the Department of State Police that a person is not prohibited from possessing or transporting a firearm under state or federal law prior to selling, renting, transferring, etc., a firearm. However, § 18.2-308.2:2 (B,2) permits dealers to transfer a firearm without this confirmation if they have not received a response from State Police by the end of the dealer's next business day. Under federal law (18 US Code § 922(t)(1)(b)), the dealer must wait three business days for a response. The proposal modifies § 18.2-308.2:2 (B,2) to require dealers to wait up to five business days and removes the provision that allows for the immediate sale, etc., of a firearm if notified by the State Police that a response will not be available by the end of the dealer's next business day.

Currently, subsection L of § 18.2-308.2:2 makes it a Class 6 felony for any firearms dealer to willfully and intentionally sell, rent, trade, or transfer a firearm in violation of this section.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2013 through FY2018, no firearms dealers were convicted of a Class 6 felony under § 18.2-308.2:2(L) for selling or transferring a firearm in violation of § 18.2-308.2:2. Although one felony conviction appeared to involve a dealer, additional analysis showed that the actual offense was likely to be that of an ineligible person who solicited another to purchase a firearm on his or her behalf, a violation of subsection N of § 18.2-308.2:2.

Impact of Proposed Legislation:

State adult correctional facilities. According to the Virginia State Police, firearms dealers must currently wait up to three business days to transfer a firearm due to the federal restrictions. The proposal would require dealers to wait up to five business days to transfer a firearm. Since there were no felony convictions under § 18.2-308.2:2(L) during the most recent six-year period, the proposal is not expected to increase 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. Similarly, the proposal is not expected to increase local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal is not expected to increase the need for adult community corrections resources.

Virginia's sentencing guidelines. Felony convictions under § 18.2-308.2:2(L) are not covered by the sentencing guidelines when this offense is the primary, or most serious, offense in a case. However, such a conviction may 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 direct care. According to the Department of Juvenile Justice (DJJ), the proposal will not increase direct care (juvenile correctional center or alternative commitment placement) 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.

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