



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 4018

(Patron – Miyares)

LD#: 19200175

Date: 07/02/2019

Topic: Felony offenses related to firearms equipped with “firearm silencers”

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
\$0 (None)
- **Adult Community Corrections Programs:**
\$0 (None)

- **Juvenile Direct Care:**
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 854 of the 2019 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal modifies §§ 18.2-53.1 to establish an additional mandatory minimum term for use of a firearm in the commission of a felony when the firearm is equipped with a silencer. The proposal defines “firearm silencer” as “any device for silencing, muffling, or diminishing report of a firearm.”

Currently, under § 18.2-53.1, it is unlawful to use, attempt to use, or display a firearm while committing or attempting to commit specified felonies. A violation is punishable as a separate and distinct felony and subject to a three-year mandatory sentence if it is the individual’s first conviction under § 18.2-53.1 and a five-year mandatory sentence if it is the individual’s second or subsequent conviction under § 18.2-53.1.

Under the proposal, the current mandatory minimum sentences for using a firearm defined in § 18.2-53.1 would remain the same. However, for each firearm that was equipped with a “firearm silencer,” an additional two-year mandatory minimum term would apply. The two-year mandatory term would be in addition to the current mandatory terms.

Analysis:

Existing data sources do not contain sufficient detail to estimate the number of convictions to which the proposed additional mandatory minimum term would apply.

According to fiscal year (FY) 2017 and FY2018 Sentencing Guidelines data, 802 offenders were convicted of a felony for using a firearm during the commission of a felony, in violation of § 18.2-53.1. The firearm conviction most frequently accompanied a robbery or felony assault conviction. However, no details were available to identify when the firearms used in the felonies were equipped with silencers.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates an additional mandatory term for felony offenses committed under certain circumstances, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing data do not provide sufficient detail to estimate the number of offenders who would be affected by the proposal. As a result, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. Because it would require affected offenders to serve an additional mandatory prison term, the proposal is not expected to increase local-responsible (jail) bed space needs.

Adult community corrections resources. The proposal is not expected to increase the need for community corrections resources and will delay the need for services for offenders affected by the proposal, as they will serve longer incarceration terms prior to being released to the community.

Virginia's sentencing guidelines. Felony convictions under §§ 18.2-53.1 are covered by the sentencing guidelines. Whenever a mandatory minimum term applies, guidelines preparers are instructed to replace any part of the guidelines range that falls below the mandatory minimum with the mandatory minimum term that is required by law. As a result, no adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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 854 of the 2019 Acts of Assembly 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.