



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 4005 (Patron – DeSteph)

LD#: 19200126

Date: 07/01/2019

Topic: Concealment of firearm while committing a felony

Fiscal Impact Summary:

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

- **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 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 expands § 18.2-53.1, relating to the use or display of a firearm in the commission of certain felonies. Under the proposal, a person is guilty of a separate felony if he carries about his person any pistol, shotgun, rifle, or other firearm that is hidden from common observation while committing or attempting to commit certain felonies. A first offense is punishable by a mandatory minimum term of confinement of three years and a second or subsequent offense is punishable by a mandatory minimum term of confinement of five years. These mandatory terms must run consecutively with any punishment received for the primary felony.

Analysis:

Existing data sources do not contain sufficient detail to estimate the number of additional felony convictions under § 18.2-53.1 that may result from the proposal's enactment.

According to fiscal year (FY) 2017 and FY2018 Sentencing Guidelines data, 805 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 was most frequently accompanied by a robbery or felony assault conviction.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing felony offense that carries mandatory terms of imprisonment, 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 a 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 some offenders affected by the proposal, as they will be serving mandatory prison terms prior to being released to the community.

Virginia's sentencing guidelines. Felony convictions under § 18.2-53.1 are covered by the current sentencing guidelines. 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.

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