



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 812 **Amendment in the Nature of a Substitute** ***(Patron Prior to Substitute – Ward)***

LD#: 20108962

Date: 02/25/2020

Topic: Limitation on handgun purchases to one per month

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

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

*Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends § 18.2-308.2:2 of the *Code of Virginia* to make the purchase of more than one handgun within a 30-day period a Class 1 misdemeanor. The proposed provisions would exempt licensed firearms dealers and persons approved by the Virginia State Police following an enhanced background check and a special application process. Additionally, certain other persons enumerated within the proposal would also be exempt.

This proposal would restore the limit on the 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 of Virginia* by the 2012 General Assembly. In addition to the misdemeanor offense, pursuant to § 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 as a Class 6 felony.

Analysis:

According to the General District Court Case Management System (CMS) for fiscal years (FY) 2007 through FY2012, when the law was previously in effect, 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 within 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.

Individuals convicted of the affected Class 1 misdemeanor who accumulate any three weapon convictions covered by § 18.2-311.2 could be found guilty of a Class 6 felony. According to the Circuit Court CMS data for FY2014-FY2019, four offenders were convicted of a felony under § 18.2-311.2 for a third or subsequent weapon offense. The felony violation of § 18.2-311.2 was the primary, or most serious, offense in three of the cases. None of these offenders received a state-responsible (prison) sentence. The remaining offender, whose primary offense was attempted robbery, was not sentenced to an active term of incarceration.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation would restore a Class 1 misdemeanor removed in 2012 to the *Code* and, thereby, expand the applicability of the Class 6 felony for a third or subsequent misdemeanor weapons violation. Offenders convicted of the misdemeanor offense could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more weapons convictions. However, during the most recent six-year period, none of the felony offenders convicted under § 18.2-311.2 received a state-responsible (prison) sentence. Therefore, the proposal is not expected to have an impact on the prison bed space needs of the Commonwealth during the six-year projection window specified by § 30-19.1:4 for legislative impact statements.

Local adult correctional facilities. By restoring a misdemeanor offense to the *Code* and expanding the applicability of a felony, the proposal may increase local-responsible (jail) bed space needs. However, since the number of new convictions resulting from the proposal cannot be determined, the magnitude of the impact on jail beds cannot be estimated.

Adult community corrections resources. Because the proposal could result in convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases affected cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. Virginia's sentencing guidelines do not cover misdemeanor offenses when the misdemeanor is the primary, or most serious, offense in the case. In addition, the guidelines do not cover felony violations under § 18.2-311.2 as the primary offense. However, misdemeanor convictions under § 18.2-308.2:2 and felony convictions under § 18.2-311.2 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, 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 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.