



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 853

(Patron – Murphy)

LD#: 20103801

Date: 12/23/2019

Topic: Recklessly allowing access to firearms

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **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

* 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 amends § 18.2-308.2:1 of the *Code of Virginia*, relating firearms. Currently, it is a Class 4 felony for an individual to sell or otherwise provide a firearm, or to possess or control a firearm with the intent to sell or provide it, to a person he knows is prohibited from possessing or transporting a firearm under one of the specified *Code* sections. The proposal expands this provision to cover circumstances in which an individual recklessly allows access to a firearm to any person he knows or has reason to believe is prohibited from possessing or transporting a firearm.

Analysis:

According to Fiscal Year (FY) 2014 through FY2019 data from the Circuit Court Case Management System (CMS), 48 offenders were convicted of a Class 4 felony under § 18.2-308.2:1. This offense was the primary, or most serious, offense in 23 of the cases. Of these, eleven offenders (47.8%) were sentenced to local-responsible (jail) terms with a median sentence of six months. Another three offenders (13.1%) were sentenced to state-responsible (prison) terms with a median sentence of 2.5 years. The remaining offenders (39.1%) were not sentenced to an active term of incarceration.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing felony offense, 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. The proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

Adult community corrections resources. Because the proposal could result in new felony 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 that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-308.2:1 are not covered by the sentencing guidelines as the primary offense. 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 direct care. 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 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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