



## Fiscal Impact Statement for Proposed Legislation

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### Virginia Criminal Sentencing Commission

### Senate Bill No. 14 (Patron – Saslaw)

**LD#:** 20100506

**Date:** 11/08/2019

**Topic:** Manufacture, sale, etc., of trigger activators

#### 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.

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#### Summary of Proposed Legislation:

The proposal adds § 18.2-308.5:1 to the *Code of Virginia*, relating to firearm trigger activators. Under the proposal, it would be a Class 6 felony for any person to manufacture, import, sell, offer for sale, possess, transfer, or transport a trigger activator in the Commonwealth. The proposal defines a trigger activator in § 18.2-308.5:1(A) as follows:

“A device designed to be attached to a semi-automatic firearm, which allows the firearm to discharge two or more shots in a burst by activating the device, including a bump-fire device or a binary trigger, but does not convert the semi-automatic firearm into a machine gun; or a manual or power-driven trigger activating device designed so that when attached to a semi-automatic firearm it increases the rate of fire of that firearm, including a trigger crank, but does not convert the semi-automatic firearm into a machine gun.”

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#### Analysis:

Existing databases do not provide sufficient detail to identify the number of new convictions likely to result from enactment of the proposal. However, affected offenders may be sentenced similarly to those who are currently convicted of a Class 6 felony under § 18.2-308.2(A) for possession of a firearm by a convicted non-violent felon—specifically those who are not subject to a mandatory minimum sentence (due to no previous felony conviction within the past ten years).

According to Sentencing Guidelines data for fiscal year (FY) 2018 and FY2019, 730 offenders were convicted of firearm possession felony violations of § 18.2-308.2(A) without a mandatory minimum penalty. This offense was the primary, or most serious, offense in 429 of the cases. Of these, 40.6% received a state-responsible (prison) sentence with a median sentence of 1.4 years. Another 35.9% were sentenced to a local-responsible (jail) term, for which the median sentence was seven months. The remaining 23.5% did not receive an active term of incarceration to serve after sentencing.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By creating a new Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, available data do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal may also increase local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

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

**Virginia's sentencing guidelines.** As a new felony, convictions under the proposed § 18.2-308.5:1 would not be covered by the sentencing guidelines as the primary, or most serious, 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, 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.

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**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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