



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 83 (Patron – DeSteph)

LD#: 20101245

Date: 11/19/2019

Topic: Brandishing a firearm

Fiscal Impact Summary:

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

- **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 § 18.2-282, relating to brandishing a firearm. Under current *Code*, it is a Class 1 misdemeanor for a person to point, hold, or brandish any firearm, including those incapable of being fired, in such a way as to induce fear in another person. If the violation occurs upon school grounds or within 1,000 feet of school property, the penalty is increased to a Class 6 felony. Under the proposal, an individual who brandishes a firearm in the presence of a law-enforcement officer would be subject to a mandatory minimum term of confinement of six months.

Analysis:

General District Court Case Management System (CMS) data for fiscal year (FY) 2018 and FY2019 indicate that 656 offenders were convicted of a Class 1 misdemeanor for brandishing a firearm under § 18.2-282. About half of these offenders (51.8%) were sentenced to a local-responsible (jail) term for which the median sentence was one month. The remaining offenders did not receive an active term of incarceration to serve after sentencing.

According to Circuit Court CMS data for FY2018 and FY2019, a felony conviction under § 18.2-282 for brandishing a firearm on school property or within 1,000 feet of a school was the primary, or most serious, offense in five cases during the two-year period. Two offenders received a local-responsible (jail) sentence of six and nine months, respectively. Another offender received a state-responsible (prison) term of two years. The remaining two offenders did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation is not expected to increase the future state-responsible (prison) bed space needs of the Commonwealth. The proposal creates a mandatory six-month jail term for pointing, holding, or brandishing a firearm in such a way as to induce fear in another when the offense is committed in the presence of a law-enforcement officer. The proposal is not expected to increase the number of individuals, or time-served, in state-responsible (prison) beds.

Local adult correctional facilities. Because it creates mandatory jail terms in certain circumstances, the proposal may increase the local-responsible (jail) bed space needs of the Commonwealth. However, the data available to the Commission do not contain sufficient detail to estimate the number of cases that may be affected by the proposal. Therefore, the magnitude of the impact on jails cannot be quantified.

Adult community corrections programs. 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 jail terms prior to being released to the community.

Virginia's sentencing guidelines. Convictions under § 18.2-282 are not covered by the sentencing guidelines when the offense is the primary, or most serious, offense in the case. However, such a conviction 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.

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.

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