



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 827 (Patron – Devolites Davis)

LD#: 07-5050726

Date: 1/3/2007

Topic: Criminal history checks at firearm shows

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal amends § 54.1-4200 and adds provisions relating to purchases at firearm shows. Under the proposed § 18.2-308.2:4, firearms show vendors would be required to obtain verification from a licensed firearm dealer that a prospective purchaser is not prohibited under state or federal law from possessing a firearm. Under the proposal, a person who makes a materially false statement on the consent form required by § 18.2-308.2:2 would be guilty of a Class 5 felony. Any person who willfully and intentionally sells, rents, trades, or transfers a firearm in violation of the proposed § 18.2-308.2:4 would be guilty of a Class 6 felony. The proposal makes it a Class 2 misdemeanor for a person to willfully and intentionally request or obtain criminal history information under false pretenses or to unlawfully disseminate criminal history record information.

Under the proposal, the addition of § 8.01-226.12 would provide civil immunity to firearm sellers for any claim arising from the use of the firearm by the purchaser or transferee in the commission of any crime, provided that the seller had obtained a criminal history record check as set out in § 18.2-308.2:4 that showed the purchaser was not prohibited legally from possessing a firearm. The amendment to § 54.1-4200 defines the terms “firearms show vendor” and “promoter”, while the addition of § 54.1-4201.2 outlines the duties of the promoter in verifying the identity of the vendor and providing each vendor with a notice of statutory obligations.

The penalties proposed for firearms show vendors and their prospective buyers parallel existing penalties for licensed dealers and their prospective buyers (§ 18.2-308.2:2).

Analysis:

According to calendar year (CY) 2004 and CY2005 Pre/Post Sentence Investigation (PSI) data, there were 55 felony convictions under § 18.2-308.2:2(K) for providing false statements on a consent form. The majority of these offenders (71%) were sentenced to probation without an active term of incarceration. Nearly one-quarter (24%) were sentenced to a local-responsible (jail) term, for which the median sentence was six months. The remaining 5% were sentenced to a state responsible (prison) term; for offenders committed to prison, the median sentence was two years. There were no Class 6

felony convictions under § 18.2-308.2:2(L) during the time period relating to dealers selling, transferring, etc., firearms in violation of § 18.2-308.2:2.

Based on the calendar year (CY) 2004 and CY2005 Local Inmate Data System (LIDS), there were no misdemeanor convictions under § 18.2-308.2:2(F) for unlawfully disseminating criminal history information or obtaining criminal history information under false pretenses.

Impact of Proposed Legislation:

State adult correctional facilities. By adding new felony offenses, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the impact of the proposal on prison beds cannot be determined.

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

Adult community corrections resources. Because the proposal will likely result in additional felony offenders on community supervision, an impact on community corrections resources is expected. However, full cost of the impact on adult community corrections cannot be determined.

Virginia's sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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 and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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