



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 222

(Patron – McDougle)

LD#: 08-0314272

Date: 1/7/2008

Topic: Possession of firearms and other weapons by persons who committed felonies while juveniles

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 § 18.2-308.2(A) to prohibit anyone with a juvenile adjudication for murder, armed robbery, kidnapping or rape (committed at 14 years of age or older) from ever possessing a firearm or a concealed weapon. Currently, this particular clause applies only to persons who were adjudicated delinquent for one of these crimes on or after July 1, 2005. Under another clause, however, any person who has a juvenile adjudication for a felony (committed at 14 year of age or older) is prohibited from possessing a firearm or concealed weapon until the age of 29.

A violation of this section is a Class 6 felony. Possession of a firearm carries a 5-year mandatory penalty if the offender has been convicted of a violent felony as defined in § 17.1-805 or a 2-year mandatory minimum sentence if the offender has been convicted of a nonviolent felony within the previous 10 years.

The General Assembly has refined § 18.2-308.2 several times in recent years. In 2007, the definition of “stun weapon” was generalized to eliminate the need for a separate definition of “taser.” The 2005 General Assembly added clause (ii) to § 18.2-308.2(A) and eliminated the two-year mandatory minimum penalty for individuals whose prior nonviolent convictions were more than 10 years old. The 2004 General Assembly removed language requiring that persons convicted of a violation of this section forfeit the weapon. In 2003, stun weapons and tasers were reintegrated into the section as restricted weapons after they were removed in 2002.

Analysis:

According to fiscal year (FY) 2006 and FY2007 Pre/Post-Sentence Investigation (PSI) data, 776 offenders were convicted of possessing or transporting firearms, stun weapons, explosives or concealed weapons in violation of § 18.2-308.2(A) during this time period. The majority (79%) were given a state-responsible (prison) term, for which the median sentence was four years. Another 6% were given a local-responsible (jail) term with a median sentence length of six months. The remaining 15% were given probation without an active term of incarceration.

Existing databases do not provide sufficient detail to identify incidents that would be covered by the proposal that are not already subject to this provision.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing felony, the proposal may increase the 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 magnitude of the impact cannot be quantified.

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

Adult community corrections programs. Because the proposal may result in additional felony offenders placed on community supervision (or lengthier supervision periods for offenders already in the community), it may have an impact on 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. No adjustment to the guidelines would be necessary under the proposal.

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

Juvenile detention facilities. The Department of Juvenile Justice 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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