



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 382

(Patron – Martin)

ID#: 08-5901268

Date: 11/28/2007

Topic: Sale of firearms to persons not lawfully in the United States

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:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

Summary of Proposed Legislation:

The proposal amends §§ 18.2-308.2:01 and 18.2-308.2:1 to prohibit the sale or transfer of firearms to any person not a citizen of the United States and not lawfully admitted for permanent residence.

Under § 18.2-308.2:1, it is currently a Class 6 felony for a person to knowingly sell, give or furnish a firearm to someone he knows is prohibited from possessing or transporting a firearm under § 18.2-308.1:1 (persons acquitted by reason of insanity), § 18.2-308.2 (convicted felons), or § 18.2-308.7 (persons under the age of 18). The proposal would extend this provision to prohibit the transfer of firearms to persons not lawfully present in the United States.

The 1993 General Assembly passed § 18.2-308.2:01 to prohibit the possession or transportation of assault firearms by unlawful aliens. This section was amended in the 2003 session to clarify the definition of an “assault firearm” and again in the 2004 session to prohibit the possession or transportation of any firearm by non-U.S. citizens not lawfully present in this country.

Analysis:

According to fiscal year (FY) 2006 and 2007 Pre/Post-Sentence Investigation (PSI) data, three offenders were convicted under § 18.2-308.2:01 for unlawful possession of a firearm by an alien; of these, one offender received probation without an active term of incarceration, one offender received a local-responsible (jail) sentence of eight months, and one offender was sentenced to one year of imprisonment.

FY2006 and FY2007 PSI data show that one person was convicted under § 18.2-308.2:1 for the unlawful sale or transfer of a firearm; this offender received a prison term of two years.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing crime, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Criminal

justice databases are insufficient to determine the additional number of offenders who would be prosecuted, convicted and sentenced under these provisions; therefore, the magnitude of the impact cannot be determined.

Local adult correctional facilities. The proposal may also have an impact on local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

Adult community corrections resources. 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 state community corrections resources. The magnitude of the impact cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under §§ 18.2-308.2:01 and 18.2-308.2:1 are not covered by the sentencing guidelines; however, convictions under these statutes may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the guidelines is necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

Juvenile detention facilities. According to the Department of Juvenile Justice (DJJ), the impact of the proposal 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 and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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