



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1214 (Patron – Kory)

LD#: 10103617

Date: 1/12/2010

Topic: Possession of weapons on school property

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-308.1, prohibiting the possession of firearms and other specified weapons on school property, to expand the applicability of this statute.

Currently, it is a Class 6 felony to possess a firearm on school property and a Class 1 misdemeanor to possess other types of weapons (such as stun guns, certain knives, or other weapon similar to any designated in § 18.2-308) on school property. Several exceptions are provided in the current statute and these permit: an unloaded firearm stored in closed container in a motor vehicle, an unloaded shotgun or rifle placed in a firearms rack of a motor vehicle, or a knife kept in a motor vehicle.

Under the proposal, the exceptions described above would be limited to the grounds of private and religious schools. An unloaded firearm in closed container, an unloaded shotgun or rifle in a gun rack, and knives kept motor vehicles would not be permitted on the grounds of public schools.

The General Assembly has refined § 18.2-308.1 several times recent years. In the 2007 session, the definition of “stun weapon” was modified. In 2005, persons with a valid concealed handgun permit parked in a motor vehicle were exempted from the weapons prohibition. In 2003, a firearm was explicitly defined as expelling a projectile by action of a combustible material and a “closed container” was defined to explicitly include a locked vehicle trunk. In the 2001 session, pocketknives with a folding blade less than three inches were exempted from the prohibited weapons. In the 1999 session, persons possessing weapons as a part of the school’s curriculum or activities were exempted from the prohibition.

Analysis:

According to the Circuit Court Automated Information System (CAIS) for fiscal year (FY) 2008 and FY2009, nine offenders were convicted of a Class 6 felony under § 18.2-308.1(B) for possessing a firearm on school property. Only one offender received a local-responsible (jail) sentence (six months); the remaining offenders did not receive any active term of incarceration to serve.

According to the General District Court Automated Information System (CAIS), 44 persons were convicted during FY2008 and FY2009 of a Class 1 misdemeanor for possession of a prohibited weapon on school property under § 18.2-308.1(A). Most of these offenders, were not given an active term of incarceration. For those sentenced to incarceration, the median jail sentence was approximately 10 days.

These data do not include cases adjudicated in Virginia's Juvenile and Domestic Relations (JDR) Courts.

Impact of Proposed Legislation:

State adult correctional facilities. By limiting the exceptions, the proposal expands the applicability of the crimes defined in § 18.2-308.1. Thus, the proposal could increase future state-responsible (prison) bed space needs. The number of additional felony convictions that may result from the proposal cannot be estimated with existing data; therefore, the potential impact of the proposal cannot be quantified.

Local adult correctional facilities. Similarly, the proposal could increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

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

Virginia's sentencing guidelines. The sentencing guidelines cover violations of simple possession of a firearm on school property under § 18.2-308.1(B) handled in Virginia's circuit courts. Other violations of § 18.2-308.1 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 correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase the need for juvenile correctional center (JCC) beds.

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; therefore, Chapter 781 of the 2009 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.