



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1234

(Patron – McClellan)

LD#: 10103732

Date: 1/11/2010

Topic: Criminal history checks at firearm shows

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)

Summary of Proposed Legislation:

The proposal amends § 54.1-4200 and adds provisions relating to purchases at firearms shows. Under the proposed § 18.2-308.2:4, gun show vendors would be required to obtain verification from a licensed firearm dealer that a prospective purchaser is not prohibited from possessing a firearm under state or federal law.

The penalties proposed for firearms show vendors and their prospective buyers parallel existing penalties for licensed dealers and their prospective buyers. Making a materially false statement on a consent form required to purchase a firearm (as specified in § 18.2-308.2:2) is a Class 5 felony. Any person who willfully and intentionally sells, rents, trades, or transfers a firearm in violation of these provisions is guilty of a Class 6 felony. Willfully and intentionally requesting or obtaining criminal history information under false pretenses or unlawfully disseminating criminal history record information is a Class 2 misdemeanor.

In addition, the proposal modifies the definition of “firearms show,” under § 54.1-4200, to include the entire premises, including parking areas. The proposed amendment to § 54.1-4200 also defines the terms “firearms show vendor” and “promoter.” The proposed § 54.1-4201.2 outlines the duties of the promoter in verifying the identities of the vendors and providing each vendor with a notice of statutory obligations, as well as posting a notice at the firearms show that describes the requirement for a criminal history record check. This part of the proposal would also require promoters to make one or more licensed dealers available to firearms show vendors for the purpose of conducting criminal history checks on prospective buyers.

Analysis:

According to FY2008 and FY2009 Sentencing Guidelines (SG) data, there were 164 felony convictions under § 18.2-308.2:2(K) for providing false statements on a consent form during this time period. Most (74%) of these offenders were sentenced to probation without an active term of incarceration. More than one-fifth (22%) of the offenders were sentenced to a local-responsible (jail) term, for which the

median sentence was five months. The remaining 4% were sentenced to a state responsible (prison) term. For offenders committed to prison, the median sentence length was 1.5 years.

According to fiscal year (FY) 2007 and FY2008 Pre/Post Sentence Investigation (PSI) data there were no Class 6 felony convictions under § 18.2-308.2:2(L) relating to dealers selling or transferring firearms in violation of § 18.2-308.2:2.

Based on the calendar year (CY) 2007 and CY2008 Local Inmate Data System (LIDS), no offenders held pre- or post-trial in jail were convicted of a misdemeanor 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 bed space cannot be determined.

Local adult correctional facilities. The proposal may 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 additional felony offenders on community supervision, an impact on state community corrections resources is possible. The full cost of the impact on community corrections cannot be determined.

Virginia's sentencing guidelines. The guidelines cover convictions for making a false statement on a firearm consent form (§ 18.2-308.2:2(K)). The guidelines do not cover convictions relating to dealers unlawfully selling or transferring firearms (§ 18.2-308.2:2(L)) when this crime is the primary (or most serious) offense in a case; however, a conviction under this section (as an additional offense) could augment the guidelines recommendation if the most serious offense at sentencing is a covered offense. 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; 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.