



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1693 (Patron – Kory)

LD #: 13103145

Date: 1/2/2013

Topic: Possession of certain 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 3 of the Acts of Assembly of 2012, Special Session I, 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, which prohibits 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 weapons similar to those designated in § 18.2-308(A)) on school property. Several exceptions are provided in the current statute. In particular, the statute permits the possession of 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 listed above would be eliminated. As a result, an unloaded firearm in a closed container, an unloaded shotgun or rifle in a gun rack, and knives kept in motor vehicles would not be permitted on school property. The remaining exemptions, such as the exception for concealed handgun permit holders in motor vehicles, would be retained.

Analysis:

According to the Sentencing Guidelines database for fiscal year (FY) 2011 and FY2012, nine offenders were convicted of a Class 6 felony under § 18.2-308.1(B) for possessing a firearm on school property. The firearm offense was the primary, or most serious, offense in five of the cases. Three of these offenders did not receive an active term of incarceration to serve after sentencing. The remaining two offenders were sentenced to local-responsible (jail) terms of one and three months, respectively.

According to the General District Court Case Management System¹, 32 individuals were convicted of a Class 1 misdemeanor during FY2011 and FY2012 for possession of a prohibited weapon on school property under § 18.2-308.1(A). The majority (81.3%) of these offenders were not given an active term of incarceration to serve after sentencing. For the remaining 18.8%, who were sentenced to a local-responsible (jail) term, the median sentence was approximately 20 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 of the Commonwealth. 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 programs. Because the proposal could result in felony 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, 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 3 of the Acts of Assembly of 2012, Special Session I, 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.

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¹ Formerly referred to as the Court Automated Information System (CAIS).