



## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### **House Bill No. 810** **(Patron – Carr)**

**LD#:** 14100137

**Date:** 12/16/2013

**Topic:** Willful discharge of firearms

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

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 806 of the 2013 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### **Summary of Proposed Legislation:**

Currently, under § 18.2-280(A), it is a Class 1 misdemeanor to discharge a firearm in any street in a city or town or in any place of public business or public gathering. If the conduct results in bodily injury to another person, the offender is guilty of a Class 6 felony.

Under the proposal, the penalty would be increased to a Class 5 felony if the conduct results in the death of another person. The proposal also expands § 18.2-280(A) to include discharging a firearm with no discernible or designated target within two miles of any occupied building.

#### **Analysis:**

Existing data do not contain sufficient detail to determine the number of cases that would be affected by the proposal. However, affected offenders may be sentenced similarly to those who are currently convicted under § 18.2-280 (discharging a firearm) or § 18.2-36 (involuntary manslaughter).

According to the General District Court Case Management System (CMS)<sup>1</sup> for fiscal year (FY) 2012 and FY2013, 162 offenders were convicted of a Class 1 misdemeanor under § 18.2-280(A) for discharging a firearm in a public place. Approximately 47% of these offenders were sentenced to a local-responsible (jail) term, for which the median sentence was one month. The remaining offenders did not receive an active term of incarceration to serve after sentencing.

<sup>1</sup> Formerly referred to as the Court Automated Information System (CAIS).

Circuit Court CMS data for FY2012 and FY2013 indicate that three offenders were convicted of a Class 6 felony under § 18.2-280(A) for discharging a firearm in a public place and causing injury to another (in these cases, the firearm offense was the primary, or most serious, offense at sentencing). Two of these offenders received a local-responsible (jail) term, with a median sentence of 6.5 months, while the remaining offender did not receive an active term of incarceration to serve after sentencing.

FY2012 and FY2013 Sentencing Guidelines data indicate that 69 offenders were convicted of involuntary manslaughter under §18.2-36 (as the primary offense) during the two-year period. The majority (78%) of these offenders received a state-responsible (prison) term, for which the median sentence was 4.3 years. The number of cases involving firearms is not known.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding an existing felony offense and increasing the felony class under certain circumstances, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of new felony convictions that could result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal may also 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.** Convictions under § 18.2-280 are not covered by the sentencing guidelines as the primary, or most serious, offense. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. 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.** The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

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**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 806 of the 2013 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**