



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 812 (Patrons – Lopez and Plum)

LD#: 14101535

Date: 1/8/2014

Topic: Criminal history record check required to transfer firearm

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 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:

The proposal adds § 18.2-308.2:4, relating to criminal history record checks for the transfer of firearms, to the *Code of Virginia*. Under the proposal, any person who transfers a firearm must first obtain verification from a licensed firearms dealer that a prospective purchaser is not prohibited from possessing a firearm under state or federal law. Essentially, the proposal expands requirements relating to criminal history record checks for firearms purchases to include additional types of transfers, such as gun shows and private transfers.

The proposal states that the definitions and provisions of § 18.2-308.2:2 regarding criminal history record checks would apply to the proposed § 18.2-308.2:4. Currently, under § 18.2-308.2:2(K), making a materially false statement on the criminal history consent form is a Class 5 felony. Under the proposal, willfully and intentionally selling, renting, trading, or transferring a firearm to a person without obtaining the verification required by the proposed statute would be a Class 1 misdemeanor.

Analysis:

Available 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 § 18.2-308.2:2(K).

According to the Sentencing Guidelines Database for fiscal year (FY) 2012 and FY2013, there were 103 felony convictions under § 18.2-308.2:2(K) for providing false statements on a consent form. This offense was the primary, or most serious, offense in 99 of the cases. The majority (75.8%) of these offenders did not receive an active term of incarceration to serve after sentencing and 18.2% of the

offenders were sentenced to a local-responsible (jail) term, for which the median sentence was five months. The remaining 6.1% were sentenced to a state-responsible (prison) term. For offenders committed to prison, the median sentence length was 1 year and 6 months.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the circumstances in which an individual must submit a criminal history consent form, the proposal may result in additional felony convictions for making a false statement on the form. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, it is not possible to estimate the number of additional criminal history record checks that would be completed under the proposed statute or the proportion of these additional checks that would result in a felony conviction for making a false statement on the consent form. Therefore, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. Similarly, the magnitude of the impact on local-responsible (jail) bed space needs cannot be quantified.

Adult community corrections resources. The potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-308.2:2(K) are covered by the current sentencing guidelines when this crime is the primary, or most serious, offense in a case. 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 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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