



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 343

(Patron – Garrett)

LD#: 14103343

Date: 1/6/2014

Topic: Fireworks

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

Summary of Proposed Legislation:

The proposal amends several sections of the *Code of Virginia* relating to fireworks, the Statewide Fire Prevention Code, and State Fire Marshals. The proposed modifications to § 18.2-85 would state that any person who causes property damage or injury to another person due to the negligent use of fireworks would be subject to prosecution under existing criminal statutes. The proposal also defines “restricted consumer fireworks,” “consumer fireworks,” and “display fireworks” and expands the definition of fireworks to include any object that emits sparks with audible or visual effects.

The proposed changes to § 27-96.1 state that the provisions of the Statewide Fire Prevention Code Act pertaining to fireworks do not apply to the use of consumer or restricted consumer fireworks on residential or agricultural property, unless prohibited by local ordinance. The provisions also would not apply to legally-obtained fireworks being transported to a locality where the fireworks are legally permitted. Currently, the exemption under § 27-96.1 applies to the sale or use of permissible fireworks on private property.

The amendments to § 27-97 would explicitly require that the Fire Prevention Code prohibit anyone younger than 18 years of age from purchasing fireworks and prohibit the storage of certain amounts of fireworks. While current law specifies that at least one person certified by the State Fire Marshal’s office as a fireworks operator or pyrotechnician must be present at each fireworks display, the proposal does not require the presence of a certified fireworks operator if the display is conducted using consumer or restricted consumer fireworks on residential or agricultural property.

The proposal contains an enactment clause stating that provisions of the proposal would not become effective until January 1, 2015.

Analysis:

General District Court Case Management System (CMS)¹ data for fiscal years 2012 and 2013 indicate that, when convicted of a local fireworks ordinance violation (as the primary, or most serious offense), the majority of offenders (97.4%) did not receive an active term of incarceration to serve after sentencing. The remaining two offenders were given a local-responsible (jail) term, with a median sentence length of slightly more than 15 days.

Existing data do not contain sufficient detail to determine the number of instances involving the negligent use of fireworks resulting in property damage or injury to an individual.

Impact of Proposed Legislation:

State adult correctional facilities. Because it does not expand the applicability of any felony penalties, the proposed legislation is not expected to increase the future state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. The proposal does not expand the applicability of any felony or misdemeanor penalties; therefore, it is unlikely to affect local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal is not expected to have an impact on community corrections resources.

Virginia's sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice, the proposal may have an impact on juvenile correctional center bed space needs. However, the actual impact on juvenile correctional center bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that, while the proposal may have an impact on juvenile detention bed space needs, the actual impact on juvenile detention facilities cannot be determined.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined 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).