



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1671 (Patrons – Simon, et al.)

LD#: 15100304

Date: 10/6/2014

Topic: Limitation on handgun purchases to one per month

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
\$569 (less than one bed)
- **Adult Community Corrections Programs:**  
Cannot be determined

- **Juvenile Correctional Centers:**  
None (\$0) \*
- **Juvenile Detention Facilities:**  
None (\$0) \*

\* Provided by the Department of Juvenile Justice

#### Summary of Proposed Legislation:

The proposal amends § 18.2-308.2:2 of the *Code of Virginia* to make the purchase of more than one handgun within a 30-day period a Class 1 misdemeanor. The proposed provisions would exempt licensed firearms dealers and persons approved by the Virginia State Police following an enhanced background check and a special application process. Additionally, law-enforcement agencies and officers, agencies authorized to perform law-enforcement duties, and state and local correctional facilities also would be exempt.

This proposal would restore the limit on the handgun purchases to one per month as well as the Class 1 misdemeanor for violation of the purchase limit, which were removed from the *Code of Virginia* by the 2012 General Assembly.

In addition to the misdemeanor offense, pursuant to § 18.2-311.2, a third or subsequent Class 1 misdemeanor weapons violation (defined in Article 4, 5, 6, or 7 of Chapter 7 of Title 18.2) is punishable a Class 6 felony.

#### Analysis:

According to the General District Court Case Management System (CMS)<sup>1</sup> for fiscal year (FY) 2007 through FY2012, there were six misdemeanor convictions under § 18.2-308.2:2 for purchasing more than one handgun within 30 days. Five of these offenders (83.3%) were not sentenced to an active term of incarceration. One (16.7%) of the offenders was sentenced to a local-responsible (jail) term of one month.

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

Based on Circuit Court CMS data for the same six-year period, five offenders were convicted of a felony, pursuant to § 18.2-311.2, for purchasing more than one handgun with 30-days (for these offenders, this was the third or subsequent misdemeanor weapons violation). The felony offense was the primary, or most serious, offense in all of the cases. Two of these offenders (40%) were not sentenced to an active term of incarceration. The remaining three offenders were sentenced to a local-responsible (jail) term, for which the median sentence was one month.

A review of FY2009-FY2014 Circuit Court CMS data for all felony convictions resulting from a third or subsequent misdemeanor firearms violation revealed that, during the six-year period, none of the offenders received a state-responsible (prison) sentence.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** The proposed legislation would restore a Class 1 misdemeanor removed in 2012 to the *Code* and, thereby, expand the applicability of a Class 6 felony for a third or subsequent misdemeanor violation. Offenders convicted of the misdemeanor offense could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more weapons convictions. However, during the most recent six-year period, none of the felony offenders convicted under § 18.2-311.2 received a state-responsible (prison) sentence. Therefore, the proposal is not expected to have an impact on the prison bed space needs of the Commonwealth during the six-year projection window specified by § 30-19.1:4 for legislative impact statements.

**Local adult correctional facilities.** Of the 11 felony and misdemeanor convictions between FY2007 and FY2012 involving violations of the one-handgun-a-month provision, four offenders received a local-responsible (jail) term with a median sentence of one month. Thus, restoring the offense to the *Code* is expected to increase the future need for local-responsible (jail) beds. The impact on jail beds is estimated to be less than one bed by FY2021 (state costs: \$569; local costs: \$838).

**Adult community corrections resources.** Seven of the 11 offenders convicted of purchasing more than one handgun within 30-days were not sentenced to incarceration and may have received a term of community supervision or been required to participate in a program as an alternative to incarceration. Additionally, the four offenders who served a jail term may have received post-incarceration supervision. While the proposal is expected to increase the need for community corrections resources, the specific impact cannot be quantified.

**Virginia's sentencing guidelines.** Virginia's sentencing guidelines do not cover misdemeanor offenses when the misdemeanor is the primary, or most serious, offense in the case. In addition, the guidelines do not cover felony violations under § 18.2-311.2 as the primary offense. However, misdemeanor convictions under § 18.2-308.2:2 and felony convictions under § 18.2-311.2 may 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.** The Department of Juvenile Justice reports that this proposal would have no impact on bed space needs for juvenile correctional centers.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that this proposal would have no impact on juvenile detention center bed space needs.

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**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 \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

**Assumptions underlying the analysis include:**

**General Assumptions**

1. State and local responsibility is based on § 53.1-20 as analyzed for the Secretary of Public Safety's Committee on Inmate Forecasting in 2014.
2. Cost per jail bed was based on The Compensation Board's FY2012 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$28.04 per day or \$10,242 per year. The local cost was calculated by using the daily expenditure cost of \$73.83 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$41.30 per day or \$15,085 per year. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.*

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