



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 560 (Patron – Lingamfelter)

LD#: 16100402

Date: 11/23/2015

Topic: Brandishing a firearm

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*

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends § 18.2-282, related to brandishing a firearm.

Under current *Code*, it is a Class 1 misdemeanor for a person to point, hold, or brandish any firearm, including those incapable of being fired, in such a way as to induce fear in another person. The proposal amends § 18.2-282 to further specify the circumstances under which a person may be found guilty of brandishing a firearm. Under the proposal, Commonwealth's attorneys would be required to prove that the offender intended to induce or reasonably knew his conduct would induce fear in another. The proposal also makes several clarifying changes to the language of § 18.2-282.

Analysis:

General District Court Case Management System (CMS) data for fiscal year (FY) 2014 and FY2015 indicate that 654 offenders were convicted of a Class 1 misdemeanor for brandishing a firearm under § 18.2-282. About half of these offenders (50.3%) were sentenced to a local-responsible (jail) term, for which the median sentence was two months. The remaining offenders did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed amendments to § 18.2-282 narrow the circumstances under which a person may be found guilty of brandishing a firearm, but do not change existing criminal penalties. Further, the proposal does not expand the number or type of behaviors eligible for criminal prosecution. As a result, the proposal is not expected to increase the state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposal is not expected to increase local-responsible (jail) bed space needs.

Adult community corrections resources. The proposal is unlikely to affect adult community corrections programs.

Virginia's sentencing guidelines. Misdemeanor convictions under § 18.2-282 are not covered by the sentencing guidelines when this offense is the primary, or most serious, offense in a case. However, a conviction for this offense 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 (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.

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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