



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 606 (Patron – Bell, Robert B.)

LD#: 16100291

Date: 1/4/2016

Topic: Temporary detention orders; firearm restrictions

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) **

**Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the 2015 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends several sections of the *Code* relating to temporary detention orders (TDO).

Currently, under § 18.2-308.1:3, any person who was the subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to voluntary admission is prohibited from purchasing, possessing, or transporting a firearm. Under § 37.2-809, a person may opt to voluntarily admit themselves for treatment prior to a TDO hearing under certain circumstances. Individuals who voluntarily admit themselves in this manner may currently retain their right to possess, etc., a firearm.

The proposal removes the option for voluntary admission prior to the issuance of a TDO and, as a result, only allows voluntary admission to occur after a TDO is issued. Essentially, the proposal would expand the number of individuals who are ineligible to possess, etc., a firearm under § 18.2-308.1:3 because voluntary admissions could only occur after the issuance of a TDO. Section 18.2-308.1:3 makes it a Class 1 misdemeanor for certain individuals, including anyone who has been ordered into involuntary inpatient or outpatient treatment or has agreed to voluntary admission after being the subject of a TDO pursuant to § 37.2-809, to possess, purchase, or transport a firearm. Any third or subsequent Class 1 misdemeanor weapon violation (defined in Article 4, 5, 6, or 7 of Chapter 7 of Title 18.2) is punishable as a Class 6 felony. Furthermore, under § 18.2-308.2:1, it is a Class 4 felony to sell, barter, give, or furnish a firearm to a person known to be prohibited from possessing or transporting a firearm under § 18.2-308.1:3.

Analysis:

According to fiscal year (FY) 2014 and FY2015 Circuit Court Case Management System (CMS) data, there were 19 felony convictions under § 18.2-308.2:1 for selling a firearm to an unauthorized person. This offense was the primary, or most serious, offense in eight of the cases. Seven of these offenders received a local-responsible (jail) term, for which the median sentence was six months. The remaining offender was sentenced to a state-responsible (prison) term of three years.

A review of FY2010 to FY2015 Circuit Court Case Management System (CMS) data for all felony convictions under § 18.2-311.2 revealed that, during the six-year period, none of the offenders received a state-responsible (prison) sentence.

Impact of Proposed Legislation:

State adult correctional facilities. Because it may increase the number of individuals prohibited from possessing, etc., a firearm under § 18.2-308.1:3, the proposal may increase the number of felony convictions under § 18.2-308.2:1. In this way, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Existing data sources do not contain sufficient detail to estimate the number of additional felony convictions that may result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

Adult community corrections resources. Because the proposal could result in 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 affected cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-308.2:1 are not covered by the sentencing guidelines. However, convictions under this statute 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, 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 665 of the 2015 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.