



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 783

(Patron – Adams)

LD#: 16100962

Date: 12/15/2015

Topic: Brandishing a firearm

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
Cannot be determined
- **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, relating 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. If the violation occurs upon school grounds or within 1,000 feet of school property, the penalty is increased to a Class 6 felony. Under the proposal, an individual who brandishes a firearm in the presence of a law-enforcement officer would be subject to a mandatory minimum term of confinement of six months.

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.

According to Circuit Court CMS data for FY2014 and FY2015, a felony conviction under § 18.2-282 for brandishing a firearm on school property or within 1,000 feet of a school was the primary, or most serious, offense in two cases during this time period. While one offender received a local-responsible (jail) sentence of six months, the other offender was sentenced to a state-responsible (prison) term of one year.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation is unlikely to increase the future state-responsible (prison) bed space needs of the Commonwealth. The proposal creates a mandatory jail term for pointing, holding, or brandishing a firearm in such a way as to induce fear in another when the offense is committed in the presence of a law-enforcement officer. The proposal will likely only affect offenders who would otherwise receive a jail sentence of less than six months or probation for the offense. While the proposal may increase the number of individuals who would be sentenced to a local-responsible (jail) term, it is not expected to affect the state-responsible population.

Local adult correctional facilities. Because it creates mandatory jail terms in certain cases, the proposal is expected to increase the local-responsible (jail) bed space needs of the Commonwealth. However, the databases available to the Commission do not contain sufficient detail to estimate the number of cases that may be affected by the proposal. Therefore, the magnitude of the impact on jails cannot be quantified.

Adult community corrections programs. The proposal is not expected to increase the need for community corrections resources and will delay the need for services for some offenders affected by the proposal, as they will be serving mandatory jail terms prior to being released to the community.

Virginia's sentencing guidelines. 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.

brandish02_0962