



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 185

(Patron – Marsden)

LD #: 16103083

Date: 12/28/2015

Topic: Prohibition on carrying loaded firearms in public areas

Fiscal Impact Summary:

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

- **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 § 18.2-287.4 of the *Code of Virginia* relating to firearms.

Currently, under § 18.2-287.4, it is a Class 1 misdemeanor to carry a loaded shotgun with a magazine that holds more than seven rounds in public places in certain jurisdictions. This offense also applies to semi-automatic center-fire rifles or pistols equipped with a magazine that will hold more than 20 rounds of ammunition, are designed to accommodate a silencer, or are equipped with a folding stock.

The proposal would broaden these prohibitions to include any loaded semi-automatic center-fire rifle or pistol. In addition, by removing language that limits the current provisions to certain enumerated jurisdictions, the proposal would make it a Class 1 misdemeanor to carry these loaded firearms in public places in all Virginia localities. Pursuant to § 18.2-311.2, a 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.

Analysis:

According to the General District Court Case Management System (CMS) for fiscal year (FY) 2014 and FY2015, six offenders were convicted of a Class 1 misdemeanor under § 18.2-287.4 for carrying a loaded firearm in certain jurisdictions. Three of these offenders did not receive an active term of incarceration to serve after sentencing. The other three were sentenced to local-responsible (jail) terms with one receiving 10 days, one receiving 15 days, and one receiving 14 months.

Offenders convicted of a Class 1 misdemeanor under § 18.2-287.4 who accumulate three or more weapon convictions could be found guilty of a Class 6 felony under § 18.2-311.2. A review of FY2010-FY2015 Circuit Court CMS data for all felony convictions resulting from a third or subsequent misdemeanor

weapons violation 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. Additional offenders convicted of the expanded Class 1 misdemeanor offense under § 18.2-287.4 could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more weapon convictions. In the six most recent fiscal years, however, no offender convicted of a felony under § 18.2-311.2 has received a state-responsible (prison) sentence. Therefore, the proposal is not expected to impact the state-responsible (prison) bed space needs of the Commonwealth during the six-year window specified by § 30-19.1:4 for legislative impact statements.

Local adult correctional facilities. By expanding an existing Class 1 misdemeanor offense, the proposal may increase local-responsible (jail) bed space needs. Because the number of new convictions resulting from the proposal cannot be determined, the magnitude of the impact on jail beds cannot be estimated.

Adult community corrections programs. The proposal could result in convictions and subsequent supervision requirements for an additional number of offenders and this may increase the need for local and/or state community corrections resources. The number of new convictions likely to result from the proposal cannot be determined; therefore, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-311.2 are not covered by the sentencing guidelines as the primary offense when this offense is the primary, or most serious, offense in a case. A conviction under this provision, however, 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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