



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 186 (Patron – Marsden)

LD#: 16103063

Date: 12/27/2015

Topic: Concealed handgun permits

#### 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 two sections of the *Code of Virginia* relating to concealed handgun permits. First, the proposal revises the list of approved methods by which an individual who applies for a concealed handgun permit may demonstrate competence. In addition, the proof of demonstrated competence for most applicants would expire five years from the date of completion of the course or class, with the exception of individuals who present evidence of current United States military service or proof of an honorable discharge from any branch of the United States armed services.

Currently, under §§ 18.2-308.02 and 18.2-308.06, a concealed handgun permit-holder must renew their concealed handgun permit every five years; however, the proof of demonstrated competence does not expire. As a result, an individual is only required to provide proof of demonstrated competence at the time of the initial permit application. Pursuant to § 18.2-308.02(C), individuals who make a materially false statement in an application for a concealed handgun permit may be prosecuted for perjury, which is punishable as a Class 5 felony under § 18.2-434.

#### Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2014 and FY2015, no individuals were convicted of a felony under § 18.2-308.02(C) for making a false statement on a concealed handgun permit application. Existing data do not contain sufficient detail to determine the number of new felony convictions that would result from enactment of the proposal. However, individuals

affected by the proposal who could potentially be convicted under § 18.2-308.02(C) may be sentenced similarly to offenders sentenced under § 18.2-434 for perjury.

Sentencing Guidelines data for FY2014 and FY2015 indicate that 113 offenders were convicted of a Class 5 felony for falsely swearing an oath under § 18.2-434. The perjury offense was the primary, or most serious, offense at sentencing in 82 of the cases. Nearly half (46.3%) of these offenders did not receive an active term of incarceration to serve after sentencing. More than one-third (37.8%) of the offenders were given a local-responsible (jail) term, for which the median sentence was six months. The remaining 15.9% received a state-responsible (prison) term with a median sentence of 1.5 years.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By requiring individuals seeking to renew their concealed handgun permit to present proof of demonstrated competence every five years, the proposal would increase the circumstances in which an individual may make a false statement on the concealed handgun permit application. This could result in additional perjury convictions under § 18.2-308.02(C). As a result, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing data sources, however, do not provide sufficient detail to estimate the number of new felony convictions that could 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 could increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

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

**Virginia's sentencing guidelines.** Convictions under § 18.2-308.02(C) are not covered by the sentencing guidelines when this offense is the primary (most serious) offense in a case. However, a conviction under this provision can 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.

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**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.**