



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 259 (Patron – Surovell)

LD#: 16100131

Date: 12/15/2015

Topic: Possession of ammunition by person involuntarily admitted

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:**
None (\$0)*
- **Juvenile Detention Facilities:**
None (\$0)*

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends § 18.2-308.1:3 to make it a Class 1 misdemeanor for a person involuntarily admitted to a mental health facility or ordered to outpatient mental health treatment to purchase, possess, or transport ammunition for a firearm. Currently, under § 18.2-308.1:3, it is a Class 1 misdemeanor for such a person to purchase, possess, or transport a firearm. In addition, the proposal amends two sections of the *Code of Virginia* related to procedures associated with the changes to § 18.2-308.1:3.

Pursuant to § 18.2-311.2, a third or subsequent Class 1 misdemeanor weapons 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 fiscal year (FY) 2014 and FY2015 data from the General District Court Case Management System (CMS), there were 100 misdemeanor convictions under § 18.2-308.1:3. The majority of these offenders (78%) were not given an active term of incarceration to serve after sentencing. The other 22% of offenders were sentenced to a local-responsible (jail) term with a median sentence of 20 days.

Offenders convicted of the expanded Class 1 misdemeanor who accumulate three or more weapons 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 under § 18.2-311.2 resulting from a third or subsequent misdemeanor firearms 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. Although offenders convicted of a Class 1 misdemeanor under the proposal could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more weapon convictions, available data reveal that, in the six most recent fiscal years, 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 have an impact on 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, the proposal may increase local-responsible (jail) bed space needs. However, data are not sufficiently detailed to estimate how many additional misdemeanor convictions may result if the proposal is enacted. Therefore, the magnitude of the impact on jail beds cannot be quantified.

Adult community corrections programs. The proposal could result in convictions and subsequent supervision requirements for an additional number of offenders, which 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 when this crime 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 proposal will not increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

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 \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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