



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 263 (Patron – Surovell)

LD#: 16102419 Revised

Date: 12/31/2015

Topic: Illegal transfer of firearms

#### 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:**  
Cannot be determined\*\*
- **Juvenile Detention Facilities:**  
Cannot be determined\*\*

\*\* 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 adds § 18.2-308.1:6 to the *Code of Virginia* to make it a Class 1 misdemeanor to purchase a firearm with the intent to commit, conspire to commit, or aid and abet in the commission of an act of terrorism. The proposed amendments to § 18.2-308.2:1 would make it a Class 4 felony to sell, barter, give, furnish, or possesses with the intent to sell, etc., a firearm to a person who has expressed an intention to commit an act of terrorism. Currently, under § 18.2-308.2:1, it is a Class 4 felony to sell, etc., a firearm to a person known to be prohibited from possessing or transporting firearms for certain reasons, such as having been convicted of a felony or found legally incompetent.

The proposed modifications to § 18.2-308.09 would disqualify any person who intends to commit an act of terrorism and individuals who are named on the consolidated Terrorist Watchlist from obtaining a concealed handgun permit. Firearms dealers would be prohibited from employing any person who intends to commit an act of terrorism as a seller for the transfer of firearms.

The General Assembly has amended § 18.2-308.2:1 several times in recent years. Specifically, the 2008 General Assembly expanded the prohibition contained in this section to include the transfer of firearms to individuals prohibited from possessing a firearm because they are not lawfully present in the United States. In 2011, the General Assembly clarified language regarding when the provisions of § 18.2-308.2:1 do not apply. The 2013 General Assembly expanded the applicability of § 18.2-308.2:1 to include additional circumstances and increased the penalty for a violation of this section from a Class 6 felony to a Class 4 felony.

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**Analysis:**

Available data do not contain sufficient detail to determine the number of incidents that would be affected by the proposal. However, affected offenders may be sentenced similarly to those who are currently convicted under § 18.2-308.2:1.

According to fiscal year (FY) 2014 and FY2015 Circuit Court Case Management System (CMS) data, 19 offenders were convicted of a felony under § 18.2-308.2:1 for selling, giving, etc., 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.

Circuit Court Case Management System (CMS) data for FY2010 through FY2015 also indicate that two offenders were convicted of a felony under § 18.2-46.5(A) or § 18.2-46.5(B) for committing, conspiring, or aiding and abetting an act of terrorism. Both offenders were sentenced to a state-responsible (prison) term, one for five years and the other for 12 years.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it creates a new felony offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. As a result, the magnitude of the impact on prison bed space needs cannot be quantified.

**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 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.** Because the proposal defines a new felony offense, convictions under the proposed § 18.2-308.2:1(B) would not be covered by the sentencing guidelines as the primary, or most serious, offense. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is 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.

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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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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