



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 49

Floor Amendment in the Nature of a Substitute (Patrons Prior to Substitute – Howell and Marsden)

LD#: 16105191

Date: 2/5/2016

Topic: Protective orders; firearm restrictions

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 proposed legislation amends several sections of the *Code*, relating to the possession of firearms by persons subject to protective orders. Currently, under § 18.2-308.1:4, it is a Class 1 misdemeanor for any person subject to a protective order to purchase or transport a firearm during the period the order is in effect. The proposal would prohibit persons subject to a protective order issued pursuant to § 16.1-279.1, related to cases of family abuse, from knowingly possessing a firearm. This offense would be punishable as a Class 6 felony.

Analysis:

According to the Supreme Court of Virginia, a total of 2,535 protective orders were entered pursuant to § 16.1-279.1, relating to cases of family abuse, in calendar year 2014. Available data do not contain sufficient detail to determine the number of new felony convictions likely to result from the proposed amendments to § 18.2-308.1:4.

The General District Court Case Management System (CMS) for fiscal year (FY) 2014 and FY2015 indicates that there were 104 misdemeanor convictions under § 18.2-308.1:4 for purchasing or transporting a firearm while subject to a protective order. Nearly two-thirds (63.5%) of these offenders did not receive an active term of incarceration to serve after sentencing. The remaining 36.5% were sentenced to local-responsible (jail) terms with a median sentence of approximately 22 days.

Impact of Proposed Legislation:

State adult correctional facilities. By establishing a new Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of new felony convictions that may 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 may also increase local-responsible (jail) bed space needs, but 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 state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. As a new felony, convictions under the proposed amendments to § 18.2-308.1:4 would not be covered by the sentencing guidelines when this crime is the primary (most serious) offense. A conviction for such an offense, 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 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 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.

firearm60_5191