



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 2098 (Patrons – Price and Simon)

LD#: 17102831

Date: 1/3/2017

Topic: Firearm possession by persons under age 18

#### Fiscal Impact Summary:

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

- **Juvenile Direct Care:**  
Cannot be determined \*
- **Juvenile Detention Facilities:**  
Cannot be determined \*

\* Provided by the Department of Juvenile Justice

#### Summary of Proposed Legislation:

The proposed legislation amends § 18.2-308.7 of the *Code of Virginia*, relating to the possession of certain firearms by a person under 18 years of age. Currently, under § 18.2-308.7, it is a Class 1 misdemeanor for any person under 18 to possess or transport a handgun or assault rifle, unless in his own home, on his own property or the property of his parent, grandparent, or legal guardian, or on the property of another with permission of his parent or legal guardian and the property owner. The proposal would narrow these exemptions by requiring that a person under 18 have prior permission before possessing or transporting a handgun or assault rifle on the property of his parent, grandparent, or legal guardian.

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:

A review of FY2011-FY2016 Circuit Court Case Management System (CMS) data revealed that five offenders were convicted of a Class 6 felony under § 18.2-311.2 for a third or subsequent weapon offense during the six-year period. This was the primary, or most serious, offense in three cases. None of the offenders received a term of incarceration to serve after sentencing.

#### 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 indicate 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 the applicability of an existing Class 1 misdemeanor and Class 6 felony, the proposal may increase local-responsible (jail) bed space needs. However, data do not contain sufficient detail 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 direct care.** According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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 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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