



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 338 (Patron – Peake)

LD#: 18104255

Date: 01/05/2018

Topic: Possession of firearm and ammunition in a courthouse

Fiscal Impact Summary:

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

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

*Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends § 18.2-283.1 of the *Code of Virginia*, relating to carrying a weapon into a courthouse.

Currently, under § 18.2-283.1, it is unlawful for a person to possess or carry into a courthouse any gun, weapon designed to propel a missile or projectile, silencer, ammunition for a dangerous weapon, explosives, stun weapon or any weapon specified in subsection A of § 18.2-308. The current weapon restrictions do not apply to law-enforcement officers and certain other individuals entering a courthouse.

The proposal would allow a person, who may lawfully possess a firearm or ammunition, to possess in or transport into any area within a courthouse a firearm or ammunition when the building is being used outside the courthouse's normal hours of operation exclusively for purposes other than judicial proceedings. Essentially, the proposal would narrow the number of individuals who may be prosecuted for possessing or transporting a firearm into a courthouse.

Pursuant to § 18.2-311.2, a third or subsequent Class 1 misdemeanor weapon violation (defined in Article 4, 5, 6, or 7 of Chapter 7 of Title 18.2) is punishable as a Class 6 felony. The proposal may result in a reduction in the number of felony convictions for a third misdemeanor weapon offense.

Analysis:

Individuals convicted of Class 1 misdemeanor weapon violations who accumulate three or more weapon convictions can be found guilty of a Class 6 felony under § 18.2-311.2. According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2012 through FY2017, five offenders were

convicted of a felony under § 18.2-311.2 for a third or subsequent weapon offense. The felony violation of § 18.2-311.2 was the primary, or most serious, offense in four of the cases. None of these offenders received an active term of incarceration to serve after sentencing.

General District Court CMS data for FY2016 and FY2017 indicate that seven offenders were convicted of a Class 1 misdemeanor under § 18.2-283.1 during the two-year period. Most of these offenders (71.4%) did not receive an active term of incarceration to serve after sentencing. The remaining 28.6% received a local-responsible (jail) term for which the median sentence was less than one month.

Impact of Proposed Legislation:

State adult correctional facilities. The amendment may result in fewer offenders convicted of the Class 1 misdemeanor offense under § 18.2-283.1 and as a result could lead to fewer convictions of the Class 6 felony under § 18.2-311.2 for three or more misdemeanor weapon convictions. Moreover, 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 impact 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 narrowing the applicability of an existing Class 1 misdemeanor offense, the proposal may decrease local-responsible (jail) bed space needs. Because the change in the number of convictions resulting from the proposal cannot be determined, the magnitude of the impact on jail beds cannot be estimated.

Adult community corrections programs. The proposal is not expected to increase the need for local and/or state community corrections resources.

Virginia's sentencing guidelines. Felony convictions under § 18.2-311.2 are not covered by the sentencing guidelines as the primary offense. A conviction under this provision, 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, the proposal is not expected to increase direct care (juvenile correctional center or alternative commitment placement) 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.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities.

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.