Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 665
(Patron – Deeds)

LD#: 18100205 **Date:** 11/1/2017

Topic: Carrying loaded firearms in public areas

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 proposal expands § 18.2-287.4 of the *Code of Virginia* by adding the City of Charlottesville and County of Albemarle to the list of localities in which it is a Class 1 misdemeanor to carry certain loaded firearms in public areas.

The proposal expands an existing Class 1 misdemeanor to include additional circumstances. 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.

Analysis:

Existing databases do not provide sufficient detail to identify the number of new convictions likely to result from enactment of the proposal.

Offenders convicted of the affected Class 1 misdemeanor who accumulate three or more weapon convictions could 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 13 offenders were convicted of a Class 1 misdemeanor under § 18.2-287.4. Eight (61.5%) of these offenders did not receive an active term

of incarceration to serve after sentencing. The median sentence for the 38.5% who were sentenced to a local-responsible (jail) term was two months.

Impact of Proposed Legislation:

State adult correctional facilities. Offenders convicted of the expanded Class 1 misdemeanor offense under § 18.2-287.4 could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more weapon convictions. In the six most recent fiscal years, however, 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 expanding the applicability of an existing Class 1 misdemeanor offense, the proposal may increase local-responsible (jail) bed space needs. Because the number of new 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 could result in convictions and subsequent supervision requirements for an additional number of offenders and this 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 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 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.

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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