



## **Fiscal Impact Statement for Proposed Legislation**

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### ***Virginia Criminal Sentencing Commission***

#### **Senate Bill No. 4020** ***(Patron – Norment)***

**LD#:** 19200114

**Date:** 7/3/2019

**Topic:** Concealed handgun permits

#### **Fiscal Impact Summary:**

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

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

\*\* 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 854 of the 2019 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

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#### **Summary of Proposed Legislation:**

The proposal amends §§ 18.2-308.09 and 18.2-308.013, relating to qualifications for obtaining or possessing a concealed handgun permit. Currently, a person is disqualified from obtaining a concealed handgun permit if he has been convicted of an assault, assault and battery, sexual battery, discharging of a firearm in violation of § 18.2-280 or § 18.2-286.1, or brandishing of a firearm in violation of § 18.2-282 within the three-year period immediately preceding the application. Under the proposal, the period of disqualification would increase from three to five years for persons convicted of assault or assault and battery and from three to 10 years for persons convicted of sexual battery or one of the specified firearm violations.

Currently, under § 18.2-308, it is a Class 1 misdemeanor to carry, on or about one's person and hidden from common observation, certain weapons including a handgun without a valid concealed handgun permit. A second conviction under this section is punishable as a Class 6 felony, and a third or subsequent violation is a Class 5 felony.

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#### **Analysis:**

According to the General District Court Case Management System (CMS) for fiscal year (FY) 2017 and FY2018, 1,983 offenders were convicted of a Class 1 misdemeanor for illegally carrying a concealed weapon. The majority (68.0%) of these offenders did not receive an active term of incarceration to serve after sentencing. The remaining 32.0% were sentenced to jail terms for which the median sentence was one month.

The Sentencing Guidelines data for FY2017 and FY2018 indicate that a total of 59 offenders were convicted of felonies under § 18.2-308 for illegally carrying a concealed weapon. A second conviction under this section was the primary, or most serious, offense in 22 cases. The majority (68.2%) of these offenders were sentenced to a local-responsible (jail) term with a median sentence of seven months. Three offenders (13.6%) were sentenced to state-responsible (prison) terms for which the median sentence was of one year. Four offenders (18.2%) did not receive an active term of incarceration to serve after sentencing. Another two offenders were convicted of a third or subsequent violation of § 18.2-308 as their primary offense at sentencing; one of these offenders was sentenced to probation and the other was sentenced to serve four months in jail. For the remaining offenders, their conviction under § 18.2-308 was secondary to a more serious offense.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By extending the time period during which someone is disqualified from possessing a concealed handgun permit, the proposal expands the potential applicability of existing felony offenses associated with unlawful possession of a concealed handgun. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Available 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. Because the number of new convictions that may result from enactment of the proposal cannot be determined, the magnitude of the impact on jail bed space needs cannot be estimated.

**Adult community corrections programs.** Because the proposal could result in 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 cannot be quantified.

**Virginia's sentencing guidelines.** Felony violations of § 18.2-308 are covered by the sentencing guidelines. Misdemeanor convictions are not covered when the misdemeanor is the primary, or most serious, offense at sentencing; however, a misdemeanor conviction 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 direct care.** According to the Department of Juvenile Justice, the proposal is not expected to impact 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 impact the bed space needs of juvenile detention facilities.

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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 854 of the 2019 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**