



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 318 (Patron – Kory)

LD#: 20100163

Date: 11/07/2019

Topic: Possession of certain weapons or ammunition on school property

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 amends § 18.2-308.1, which prohibits the possession of firearms and other specified weapons on school property, to expand the applicability of this statute.

Currently, it is a Class 6 felony to possess a firearm on school property and a Class 1 misdemeanor to possess other types of weapons (such as stun guns, certain knives, or other weapons similar to those designated in § 18.2-308.1) on school property. Several exceptions are provided in the current statute. In particular, the statute permits the possession of specified weapons under this section as a part of the school's curriculum or activities and any program sponsored or facilitated by either school or any organization authorized by the school to conduct its programs either on or off the school premises.

The proposal would expand the Class 1 misdemeanor to include the possession of firearm ammunition (as defined in § 18.2-308.2) on school property. The proposal would also modify some of the exceptions listed above, permitting the possession of any firearm ammunition for the school's curriculum or activities or any school-related programs.

Analysis:

According to the General District Court CMS for FY2014 through FY2019, 86 offenders were convicted of a Class 1 misdemeanor for possessing a weapon other than a firearm on school property under § 18.2-308.1(A) during this period. The majority (81.4%) of these offenders did not receive an active term of incarceration to serve after sentencing. The remaining 18.6% were sentenced to jail terms with a median sentence of 1.5 months.

Offenders convicted of a Class 1 misdemeanor under § 18.2-308.1(A) 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 CMS data for FY2014-FY2019, four 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 three of the cases. None of these offenders received a state-responsible (prison) sentence. The remaining offender, whose primary offense was attempted robbery, was not sentenced to an active term of incarceration.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal expands the applicability of the Class 1 misdemeanor defined in § 18.2-308.1(A) and alters the exceptions provided in the statute. Offenders convicted of Class 1 misdemeanor under § 18.2-308.1(A) 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 unlikely 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. The proposal may 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 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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