Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 581

(Patron – Howell)

LD#: 20102952 **Date:** 12/10/2019

Topic: Access to firearms by minors

Fiscal Impact Summary:

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

- **Juvenile Correctional Centers:** Cannot be determined **
- **Juvenile Detention Facilities:** Cannot be determined **

** 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.

Summary of Proposed Legislation:

Currently, under § 18.2-56.2(A), it is a Class 3 misdemeanor for any person to recklessly leave a loaded, unsecured firearm in such a manner as to endanger the life or limb of a child under the age of 14. A Class 3 misdemeanor is punishable by a fine up to $500.

The proposal would expand this provision to include any reckless act of leaving a loaded, unsecured firearm in such a manner as to endanger the life or limb of any child under the age of 18. The proposal would also increase the penalty for acts covered under § 18.2-56.2(A) from a Class 3 misdemeanor to a Class 6 felony.

Currently, § 18.2-371.1(B) specifies that any parent, guardian, or other person responsible for the care of a child under the age of 18 whose willful act or omission in the care of such child was so gross, wanton, and culpable as to show a reckless disregard for human life is guilty of a Class 6 felony.

Analysis:

During fiscal year (FY) 2018 and FY2019, ten offenders were convicted of a Class 3 misdemeanor under § 18.2-56.2 (as the primary, or most serious, offense) in General District Court or Juvenile and Domestic Relations Court. However, existing data sources do not contain sufficient detail to estimate the total

number of new felony convictions under § 18.2-56.2 that may result from the proposal's enactment. It is possible that affected offenders may be sentenced similarly to those currently convicted of a Class 6 felony under § 18.2-371.1(B).

According to FY2018 and FY2019 Sentencing Guidelines data, 267 offenders were convicted of a Class 6 felony under § 18.2-371.1(B) for gross, wanton or reckless care of a child (as the primary, or most serious, offense). Nearly half of these offenders (46.4%) received a local-responsible (jail) term with a median sentence of four months. Another 12.4% received a state-responsible (prison) term for which the median sentence was approximately 1.4 years. The remaining 41.2% of offenders did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing offense and elevates the penalty from a misdemeanor to a felony, the proposal may increase future state-responsible (prison) bed space needs of the Commonwealth. Existing data do not provide sufficient detail to estimate the number of offenders who would be affected by the proposal. As a result, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may increase the local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

Adult community corrections programs. Because the proposal could result in felony convictions and subsequent supervision requirements for additional offenders, the proposal may increase the need for adult community corrections resources. However, the potential impact on state and local community corrections programs cannot be determined.

Virginia's sentencing guidelines. As a new felony offense, convictions under § 18.2-56.2 would not be covered by the sentencing guidelines when the crime is the primary (most serious) offense in a case. A conviction for such an offense, 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 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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