



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 71 Floor Amendment in the Nature of a Substitute (Patron Prior to Substitute – Lucas)

LD#: 20107958

Date: 2/10/2020

Topic: Possession of weapons

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, relating to the possession of certain weapons on school property.

Currently, under § 18.2-308.1, it is a Class 1 misdemeanor to possess certain weapons on the property of (i) any public, private or religious elementary, middle or high school, (ii) property open to the public that is being used exclusively for a school sponsored function, or (iii) any school bus. If the offender possesses a firearm, the penalty is increased to a Class 6 felony. Possession of a firearm with the intent to use it or displaying a firearm in a threatening manner on school property is also a Class 6 felony and carries a five-year mandatory minimum term of incarceration. The proposal expands the applicability of these provisions to include preschools and child day centers; however, the child day center provisions shall only apply when a child who attends such a center is present upon the property of such child day center.

Analysis:

The Sentencing Guidelines database for fiscal year (FY) 2014 through FY2019 indicates that 37 offenders were convicted of a Class 6 felony under § 18.2-308.1(B) for possessing a firearm on school property. The firearm offense was the primary, or most serious, offense in 23 of the cases. The majority (60.9%) of these offenders did not receive an active term of incarceration to serve after sentencing. The remaining 39.1% were sentenced to a local-responsible (jail) term, with a median sentence of three months.

According to the Circuit Court Case Management System (CMS) for FY2014 through FY2019, there were no convictions of possessing a firearm on school property with the intent to use such firearm under § 18.2-308.1(C) during that time period.

According to the General District Court CMS for FY2014 through FY2019, 100 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 (78%) of these offenders did not receive an active term of incarceration to serve after sentencing. The remaining 22% were sentenced to jail terms with a median sentence of one month.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of existing offenses, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. In the six most recent fiscal years, however, no offender convicted of a felony under § 18.2-308.1(B) or § 18.2-308.1(C)¹ 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. By expanding the applicability of existing offenses, 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 violations of § 18.2-308.1(B) are covered by the sentencing guidelines. Felony convictions under § 18.2-308.1(C) are not covered by the sentencing guidelines when the offense is the primary (or most serious) offense in a case. Such a conviction, however, 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 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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¹ As the primary, or most serious, offense.