



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1250 **Amendment in the Nature of a Substitute** **(Patron Prior to Substitute –Deeds)**

LD#: 21104379

Date: 02/03/2021

Topic: Criminal history record checks for firearm rentals

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:**
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 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal amends § 18.2-308.2:2 to specify that, for the purposes of conducting a criminal history record information check for a firearm transfer, the term "rent" includes a temporary change in dominion or control of a firearm for use at or on the premises of a dealer's business location in exchange for money or other consideration. Under current federal law, the rental of a firearm for use on a dealer's business premises is not considered to be a sale, disposition, or delivery of the firearm; therefore, such rental does not allow for a National Instant Criminal Background Check System check to be performed. The proposal would authorize the Virginia State Police to conduct a Virginia state criminal history record information check in those circumstances in which an individual wants to rent a firearm for use on the dealer's premises. The proposal has a delayed enactment clause, specifying that the provisions of this act shall become effective on January 1, 2023.

The proposal would expand the applicability of existing felony offenses. Under § 18.2-308.2:2(K), making a materially false statement on a criminal history consent form is a Class 5 felony. Under § 18.2-308.2:2(L), any dealer who willfully and intentionally sells, rents, trades or transfers a firearm in violation of this section is guilty of a Class 6 felony. Any person who attempts to solicit, persuade, encourage, or entice any dealer to transfer or convey a firearm in violation of this section, as well as any other person who willfully and intentionally aids or abets such person, is also guilty of a Class 6 felony (§ 18.2-308.2:2(L1)).

Analysis:

Existing data sources do not contain sufficient detail to estimate how many felony convictions would result from enactment of the proposal. However, affected offenders may be sentenced similarly to those who are currently convicted of a felony under the existing provisions (see table below).

Offenders Convicted of Select Felony Firearm Offenses, FY2019-FY2020

Primary Offense	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence
False statement on firearm consent form (§ 18.2-308.2:2(K))	220	77.7%	15.5%	5.5 months	6.8%	1.3 years
Dealer sell/transfer firearm in violation of section (§ 18.2-308.2:2(L))	0	N/A	N/A	N/A	N/A	N/A
Solicit, etc., dealer to transfer firearm to another (§ 18.2-308.2:2(L1))	0	N/A	N/A	N/A	N/A	N/A

Note: The analysis is based on cases in which the specified offense was the primary, or most serious, offense in the sentencing event.

Sources: Supreme Court of Virginia - Circuit Court Case Management System (CMS), FY2019-FY2020 and Virginia Criminal Sentencing Commission - Sentencing Guidelines Database, FY2019-FY2020

Impact of Proposed Legislation:

State adult correctional facilities.¹ By expanding the applicability of existing felony offenses, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. For example, because it expands the circumstances in which an individual must submit a criminal history consent form, the proposal may result in additional felony convictions for making a false statement on the form. Existing data do not provide sufficient detail to estimate the number of new felony convictions that would result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. By expanding certain felony offenses, the proposal may increase local-responsible (jail) bed space needs. As 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 felony 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 § 18.2-308.2:2(K) are covered by the sentencing guidelines. Felony violations of § 18.2-308.2:2(L) and (L1) are not covered by the sentencing guidelines as the primary, or most serious, offense; however, such a 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.

¹ Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

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 1289 of the Acts of Assembly of 2020 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.

firearm16_4379