



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1381 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Ebbin)

LD#: 21103907

Date: 01/28/2021

Topic: Carrying a weapon into Capitol Square, etc.

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

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 the *Code of Virginia* by adding § 18.2-283.2, relating to certain weapons. Under the proposal, it would be a Class 1 misdemeanor for any person to possess or transport a firearm or other dangerous weapon while in Capitol Square or any building (1) owned or leased by the Commonwealth or any agency thereof and (2) where employees of the Commonwealth or agency thereof are regularly present for the purpose of performing their official duties. The proposal provides exceptions for law enforcement officers, retired State Police officers, conservator of the peace, magistrate, court officer, judge, county or city treasurer, commissioner or deputy commissioner of the Virginia Workers' Compensation Commission, authorized security personnel, bail bondsman, bail enforcement agent, and active military personnel while in the performance of their official duties. An exception is also provided for tradesmen who customarily use a knife or blade while they are performing their official duties.

Pursuant to § 18.2-311.2, a third or subsequent Class 1 misdemeanor weapons violation (defined in Article 4, 5, 6, or 7 of Chapter 7 of Title 18.2) is punishable as a Class 6 felony.

Analysis:

Available data do not contain sufficient detail to determine the number of new convictions likely to result from enactment of the proposal. Offenders convicted of the proposed Class 1 misdemeanor 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 FY2015-FY2020, five 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 offenders, whose primary offense was either attempted robbery or possession of firearm by a non-violent felon, were not sentenced to an active term of incarceration.

Impact of Proposed Legislation:

State adult correctional facilities.¹ Although offenders convicted of a Class 1 misdemeanor under the proposal could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more weapon convictions, available data reveal that, in the six most recent fiscal years, no offender convicted of a felony under § 18.2-311.2 has received a state-responsible (prison) sentence. Therefore, the proposal is not expected to have an impact on 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 creating new misdemeanors for which jail confinement is authorized, the proposal may increase local-responsible (jail) bed space needs. However, data are not sufficiently detailed to estimate how many additional misdemeanor convictions may result if the proposal is enacted. Therefore, the magnitude of the impact on jail beds cannot be quantified.

Adult community corrections resources. The proposal could result in convictions and subsequent supervision requirements for an additional number of offenders, which may increase the need for local and/or state community corrections resources. The number of new convictions likely to result from the proposal cannot be determined; therefore, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-311.2 are not covered by the sentencing guidelines when this crime is the primary, or most serious, offense in a case. However, a conviction for this offense 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. According to the Department of Juvenile Justice, the impact of the proposal on the bed space needs of juvenile detention facilities cannot be determined.

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.

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.

weapon08_3907