



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1585 (Patron – Sullivan)

LD#: 23101836

Date: 12/16/2022

Topic: Wearing of body armor in public

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 2 of the Acts of Assembly of 2022, Special Session I, 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 adds § 18.2-287.2:1 to make it a Class 1 misdemeanor for any person to wear hard body armor, as defined in the bill, anywhere other than while on his own private property. The bill provides exceptions for certain individuals, including law enforcement and members of the Armed Forces. The proposal also requires the Department of Criminal Justice Services to adopt regulations establishing criteria for eligible professions requiring the use of hard body armor during the performance of their official duties and to publish the list of such eligible professions on the Department's website.

Pursuant to § 18.2-311.2, a third or subsequent Class 1 misdemeanor weapon violation (defined in Article 4, 5, 6, or 7 of Chapter 7 of Title 18.2) is punishable as a Class 6 felony. The proposed Class 1 misdemeanor would be covered by this enhanced penalty provision.

Under current law, which the bill does not change, it is a Class 4 felony for any person, while committing a crime of violence or a felony drug distribution offense, to have in his possession a firearm or knife and wear body armor designed to diminish the effect of the impact of a bullet or projectile (§18.2-287.2).

Analysis:

Existing data sources do not contain sufficient detail to identify the number of individuals who could be convicted of the proposed Class 1 misdemeanor for wearing body armor in public.

Offenders convicted of the affected 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 Circuit Court

Case Management System (CMS) data for fiscal year (FY) 2017 through FY2022, three 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 for only one of these offenders. This offender received a state-responsible (prison) sentence of 1.3 years.

According to the Circuit Court CMS data for the same six-year period, four offenders were convicted of a Class 4 felony under § 18.2-287.2 for wearing body armor during the commission of a crime of violence or felony drug distribution and while in possession of a firearm or knife. All four offenders had convictions for other more serious crimes in the same sentencing event.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of an existing Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, available data do not provide sufficient detail to estimate the number of new felony convictions that may result from the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

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

Adult community corrections resources. The impact on state community corrections resources and local community-based probation services cannot be estimated.

Virginia's Sentencing Guidelines. Convictions under § 18.2-311.2 are not covered by the Sentencing Guidelines as the primary, or most serious, offense in a case. Such a conviction could augment the Guidelines recommendation (as an additional offense) 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 (DJJ), 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 2 of the Acts of Assembly of 2022, Special Session I, 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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