



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 918 *(Patron – Morrissey)*

LD#: 23102000

Date: 01/04/2023

Topic: Assault firearms and related devices

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 amends numerous sections of the *Code* and adds §18.2-309.1 relating to assault firearms and certain ammunition feeding devices. In general, the proposal establishes the new and broader definition of “assault firearm” under § 18.2-308.2:2 and clarifies what a “large capacity ammunition feeding device” means in the proposed § 18.2-309.1. The proposal also specifies that certain firearms, such as an antique firearm, are not considered an assault firearm.

Accordingly, the bill would:

- Make it a Class 1 misdemeanor for any person to willfully and intentionally sell an assault firearm as defined under § 18.2-308.2:2 to another person or purchase an assault firearm from another person (proposed under § 18.2-308.2:5(E));
- Prohibit a dealer from selling, renting, trading or transferring any assault firearm defined under § 18.2-308.2:2 to any person, violation of which is a Class 6 felony (currently, under the existing definition of an assault firearm, this restriction applies only to potential buyers who are not citizens of the United States and are not lawfully admitted for permanent residence);
- Prohibit, subject to a Class 1 misdemeanor, any person from carrying any assault firearm (with the proposed definition) on or about his person on any public street, road, etc. or in any public park or other place open to the public in any localities in the Commonwealth, rather than just certain localities (§ 18.2-287.4); and

- Prohibit any person (with certain exempted conditions) from importing, selling, bartering, or transferring a large capacity ammunition feeding device, violation of which would be a Class 1 misdemeanor (§ 18.2-309.1);

Currently, under § 18.2-308.2:2(L), a firearms dealer who willfully and intentionally sells or transfers a firearm in violation of that section is guilty of a Class 6 felony.

Per § 18.2-287.4, it is a Class 1 misdemeanor for a person to carry a loaded semi-automatic firearm with specified features and equipped with a magazine that holds more than 20 rounds or a shotgun with a magazine that will hold more than seven rounds in public areas in the cities of Alexandria, Chesapeake, Fairfax, Falls Church, Newport News, Norfolk, Richmond, or Virginia Beach or in the counties of Arlington, Fairfax, Henrico, Loudoun, or Prince William.

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

Analysis:

Existing databases do not provide sufficient detail to identify the number of new convictions likely to result from enactment of the proposal. Information pertaining to offenders convicted under existing provisions can be found in the table below.

Offenders Convicted of Select Firearm Offenses, FY2017-FY2022

Primary Offense	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence
Carry loaded firearm with specified features in certain localities (§ 18.2-287.4) ¹	214	69.2%	30.8%	2 mos.	N/A	N/A
Third or subsequent misdemeanor weapons violation (§ 18.2-311.2) ²	1	N/A	N/A	N/A	100.0%	1.3 yrs.
Dealer sell/transfer firearm in violation of section (§ 18.2-308.2:2(L)) ²	0	N/A	N/A	N/A	N/A	N/A

Note: Analysis is based on cases in which the specified offense was the primary, or most serious, offense at sentencing.

¹Source: Supreme Court of Virginia - General District Court Case Management System (CMS), FY2017-FY2022

²Source: Supreme Court of Virginia - Circuit Court Case Management System (CMS), FY2017-FY2022

Impact of Proposed Legislation:

State adult correctional facilities. The proposal creates a new definition of an assault firearm and expands the potential applicability of existing offenses. Thus, the proposal may increase the future state-responsible (prison) beds needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal; therefore, the magnitude of the impact on state-responsible (prison) beds cannot be quantified.

Local adult correctional facilities. Similarly, by expanding felony offenses and creating new misdemeanor offenses, the proposal may increase local-responsible (jail) bed space needs. Because the number of new convictions resulting from the proposal cannot be determined, the magnitude of the impact on jail beds 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 resources cannot be quantified.

Virginia's Sentencing Guidelines. Convictions under the affected statutes are not covered by the Sentencing Guidelines as the primary, or most serious, offense in a case. A conviction under one of these provisions, however, 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, 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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