



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 113

(Patron – Sullivan)

LD#: 24101123

Date: 12/07/2023

Topic: Possession, purchase, or transportation of firearms

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 1 of the Acts of Assembly of 2023, 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 expands § 18.2-308.1:5 to prohibit individuals who, within a three-year period, have been convicted of two or more misdemeanor drug offenses under Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, subsection B of former § 18.2-248.1:1, or § 18.2-250 from possessing a handgun for a period of five years following the second conviction. Currently, § 18.2-308.1:5 prohibits these individuals from purchasing or transporting a handgun for five years. Possession of a handgun is not prohibited under the current provision. A violation of this section is a Class 1 misdemeanor.

Additionally, the proposal expands § 18.2-308.1:5 to specify that any person who, within a five-year period, has been convicted of two misdemeanor driving or boating while intoxicated offenses (under §§ 18.2-266, 29.1-738 or 46.2-341.24) shall be ineligible to possess, purchase, or transport a handgun for a period of five years following the second conviction.

The proposal also provides information regarding the process of relinquishing or transferring any handguns currently possessed by those convicted under this offense.

The proposal expands an existing Class 1 misdemeanor to include additional circumstances. 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.¹

¹ Under current law, felony offenses defined in § 18.2-311.2 are eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby offenders will serve a minimum of 67% of the sentence ordered by the court. The proposed legislation does not change the earned sentence credits available to offenders convicted of these felonies.

Analysis:

Existing databases do not provide sufficient detail to identify the number of new convictions likely to result from enactment of the proposal; however, such offenders may be sentenced similarly to those who have been convicted under existing provisions.

According to the General District Court Case Management System (CMS) for FY2018 through FY2023, one offender was convicted of a Class 1 misdemeanor under § 18.2-308.1:5 for purchasing or transporting a handgun following two misdemeanor drug offenses. The individual received a local-responsible (jail) sentence of 10 days.

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 Circuit Court CMS data for FY2018 through FY2023, 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 all three offenders. All three offenders received state-responsible (prison) sentences with a median sentence of 1.3 years.

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. 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, by expanding the applicability of an existing Class 6 felony and Class 1 misdemeanor, 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. Felony offenses in § 18.2-311.2 are not defined as violent under § 17.1-805(C) for the purposes of 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 1 of the Acts of Assembly of 2023, 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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