



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1174

(Patron – Sickles)

LD#: 24101081

Date: 12/07/2023

Topic: Purchase of assault 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 amends § 18.2-308.2:2, relating to the purchase of certain firearms. Under the proposal, a person must be 21 years of age or older to purchase an assault firearm. The purchaser must consent in writing to have the dealer obtain criminal history record information prior to completion of the sale or other such transfer, and the dealer must verify that the purchaser is at least 21 years of age. The proposal expands the definition of an assault firearm in § 18.2-308.2:2; it also modifies the definition of an assault firearm from a firearm equipped with a magazine that will hold more than 20 rounds to a firearm with a fixed ammunition feeding device with the capacity to accept more than 15 rounds.

The proposal would expand the potential applicability of several existing felony offenses. Under § 18.2-308.2:2(K), making a materially false statement on a consent form that is required to purchase a firearm from a licensed dealer is a Class 5 felony. Under § 18.2-308.2:2(L), it is a Class 6 felony for any firearms dealer to willfully and intentionally sell, rent, trade, or transfer a firearm in violation of this section. Per § 18.2-308.2:2(L1), any person who attempts to solicit or entice a dealer to transfer a firearm other than to the actual buyer is guilty of a Class 6 felony. Pursuant to § 18.2-308.2:2(M), purchasing a firearm with the intent to transfer it to an individual who is ineligible to purchase a firearm from a dealer is a Class 4 felony that carries a mandatory minimum term of one year. Offenders who transfer more than one firearm in violation of § 18.2-308.2:2(M) are subject to a mandatory minimum term of five years. Subsection N of § 18.2-308.2:2 makes it a Class 4 felony for any person ineligible to purchase or possess a firearm to

solicit, employ, or assist any person in purchasing a firearm in violation of § 18.2-308.2:2(M); a violation of this subsection also carries a mandatory minimum term of five years.¹

Analysis:

Existing data sources do not contain sufficient detail to estimate the number of additional convictions that may result from enactment of the proposal. However, individuals convicted of a felony due to the proposal may be sentenced similarly to those convicted under the existing provisions of § 18.2-308.2:2 (see table below).

Offenders Convicted of Select Felony Firearm Offenses, FY2022-FY2023

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)) ⁺	270	81.9%	14.4%	7.0 mos.	3.7%	1.1 yrs.
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)) ⁺⁺	2	100%	N/A	N/A	N/A	N/A
Purchase firearm to provide to ineligible person (§ 18.2-308.2:2(M,i)) ⁺⁺	0	N/A	N/A	N/A	N/A	N/A
Transport firearm out of state to provide to ineligible person (§ 18.2-308.2:2(M,ii)) ⁺⁺	0	N/A	N/A	N/A	N/A	N/A
Solicit violation of § 18.2-308.2:2(M) (§ 18.2-308.2:2(N)) ⁺⁺	3	0%	0%	N/A	100%	7.0 yrs.

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

⁺Source: Virginia Criminal Sentencing Commission - Sentencing Guidelines Database, FY2022-FY2023;

⁺⁺Supreme Court of Virginia - Circuit Court Case Management System (CMS), FY2022-FY2023

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the potential applicability of existing felony offenses, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, 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 prison bed space needs cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

¹ Under current law, felony offenses defined in § 18.2-308.2:2 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.

Adult community corrections resources. 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 affected cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's Sentencing Guidelines. Felony convictions (except subsection K) under § 18.2-308.2:2 are not covered by the Sentencing Guidelines when these offenses are the primary, or most serious, offense in a case. Such a conviction may augment the Guidelines recommendation if the most serious offense at sentencing is covered by the Guidelines. Felony offenses in subsections M and N of § 18.2-308.2:2 are defined as violent under § 17.1-805(C) for Guidelines purposes. 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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