



## Fiscal Impact Statement for Proposed Legislation

---

### Virginia Criminal Sentencing Commission

#### House Bill No. 351 (Patron – Clark)

LD#: 24101242

Date: 01/03/2024

Topic: Firearm locking 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 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 adds § 18.2-56.3 to the *Code of Virginia* regarding firearm locking devices. The proposal requires any person who purchases a firearm to either (i) purchase a locking device for such firearm if such person resides in the same household as a minor, or (ii) complete a certification statement on a form provided by the Department of State Police, under penalty of perjury, certifying that he does not reside in the same household as a minor, with exceptions enumerated in the bill. In addition, the bill provides that it is unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any firearm to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee (i) purchases a locking device for such firearm if such person resides in the same household as a minor, or (ii) completes a certification statement, under penalty of perjury, certifying that he does not reside in the same household as a minor. A violation of either provision is punishable as a Class 1 misdemeanor.

Currently, under § 18.2-56.2, it is a Class 1 misdemeanor to recklessly leave a loaded, unsecured firearm in such a manner as to endanger the life or limb of a child under the age of 14. Prior to July 1, 2020, this offense was a Class 3 misdemeanor. Under § 18.2-434, a person to whom an oath is lawfully administered who willfully and falsely swears to any material matter may be prosecuted for perjury, a Class 5 felony.

---

#### Analysis:

Existing data sources do not contain sufficient detail to estimate the number of new felony and misdemeanor convictions that may 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 fiscal year (FY) 2018 through FY2023, 12 offenders were convicted of a Class 1 misdemeanor under § 18.2-56.2(A) for leaving a loaded, unsecured firearm in such a manner as to endanger the life or limb of a child under the age of 14. Five of the 12 were convicted while the offense was classified as a Class 3 misdemeanor (punishable by fine only). Seven offenders were convicted of the offense after it was increased to a Class 1 misdemeanor. Of these, four (57.1%) were sentenced to a local-responsible (jail) sentence with a median sentence of 2.0 months and the remaining three (42.9%) did not receive an active term of incarceration to serve after sentencing.

Individuals convicted of the proposed perjury offense may be sentenced similarly to those currently convicted of a Class 5 felony for perjury under § 18.2-434.<sup>1</sup> According to Sentencing Guidelines data for the same six-year period, 220 individuals were convicted under § 18.2-434 for falsely swearing on an oath. In 145 of the cases, this offense was the primary, or most serious, offense in the sentencing event. Of these 145 sentencing events, 43.4% of defendants received probation without an active term of incarceration, 46.2% received a local-responsible (jail) term, and 10.3% received a state-responsible (prison) term. For defendants given a state prison term, the median sentence was 1.5 years.

---

### **Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding the applicability of an existing Class 5 felony defined in § 18.2-434, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Available information is insufficient to estimate the number of new felony convictions that may result from enactment of the proposal. Therefore, the magnitude of the impact on prison beds cannot be quantified.

**Local adult correctional facilities.** By expanding a felony and creating new Class 1 misdemeanors, the proposal may increase the need for local-responsible (jail) bed space needs. The number of additional convictions that may result from the proposal cannot be estimated; therefore, the magnitude of the impact on jail bed space needs cannot be determined.

**Adult community corrections resources.** Because the proposal could result in additional convictions with supervision requirements for the offenders, the proposal may affect adult community corrections resources. However, the potential impact on state community corrections resources cannot be quantified.

**Virginia's Sentencing Guidelines.** Felony convictions under § 18.2-434 for falsely swearing an oath are covered by the Sentencing Guidelines as the primary, or most serious, offense. Misdemeanor convictions under the proposed § 18.2-56.3 would not be covered; such convictions, 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. Felony offenses under § 18.2-434 are not defined as violent under § 17.1-805(C) for Guidelines purposes.

**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.

---

<sup>1</sup> Felony offenses under § 18.2-434 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.

**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.**

firearm49\_1242