



Fiscal Impact Statement for Proposed Legislation
Virginia Criminal Sentencing Commission

House Bill No. 454
Amendment in the Nature of a Substitute
(Patron Prior to Substitute – Callsen)

LD#: 24105639

Date: 01/19/2024

Topic: Carrying a weapon into Capitol Square, etc.

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: \$50,000* • Local Adult Correctional Facilities: Cannot be determined • Adult Community Corrections Programs: Cannot be determined 	<ul style="list-style-type: none"> • Juvenile Direct Care: Cannot be determined** • Juvenile Detention Facilities: Cannot be determined** <p style="text-align: center;">** Provided by the Department of Juvenile Justice</p>
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* 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 § 18.2-283.2, relating to carrying a firearm or certain weapons within Capitol Square or other designated areas. Currently, it is a Class 1 misdemeanor for any person to carry any firearm or explosive material while in (1) the Capitol of Virginia; (2) Capitol Square and the surrounding area; (3) any building owned or leased by the Commonwealth or any agency thereof; or (4) any office where employees of the Commonwealth or agency thereof are regularly present for the purpose of performing their official duties. The current statute provides a list of exemptions for certain individuals and circumstances. In addition, the current statute provides exceptions for certain locations, including state parks and properties owned or operated by public institutions of higher education. Section 18.2-283.2 was created by the 2021 General Assembly (Special Session I) and enacted in July 2021.

The proposal expands the existing Class 1 misdemeanor by limiting the exception that applies to properties owned or operated by public institutions of higher education. Under the proposal, individuals may possess a weapon within a building owned or operated by the institution only if they possess the weapon as part of the institution’s curriculum or activities, as approved through the law-enforcement or public safety unit of the institution, or as part of any organization authorized by the institution to possess weapons, as approved through the law-enforcement or public safety unit of the institution, while conducting its programs or activities there.

Pursuant to § 18.2-311.2, a third or subsequent Class 1 misdemeanor weapons 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, the felony offense defined in § 18.2-311.2 is 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:

Available data do not contain sufficient detail to determine the number of new convictions likely to result from enactment of the proposal.

According to the General District Court Case Management System (CMS) for fiscal years (FY) 2022 and FY2023, one offender was convicted of a misdemeanor offense under § 18.2-283.2. The offender received a local-responsible (jail) sentence of one month.

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 the Circuit Court CMS data for fiscal year (FY) 2018 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) terms for which the median sentence was 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 enactment of the proposal; therefore, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. By expanding existing misdemeanor and felony offenses, the proposal may increase local-responsible (jail) bed space needs. Data are not sufficiently detailed to estimate how many additional misdemeanor convictions may result if the proposal is enacted. Thus, the extent of the impact on jail beds cannot be quantified.

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 community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-311.2 are not covered by the Sentencing Guidelines when this offense is the primary (or most serious) offense. Such a conviction could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. This offense is 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. According to the Department of Juvenile Justice, the impact of the proposal on the bed space needs of juvenile detention facilities cannot be determined.

Pursuant to § 30-19.1:4 of the Code of Virginia, 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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