



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 791 (Patron – Henson)

LD #: 24104704

Date: 01/10/2024

Topic: Possessing, etc. a pneumatic gun on school property

#### 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 the applicability of § 18.2-308.1 to include a pneumatic gun as a prohibited weapon on school property.

Currently, it is a Class 6 felony to possess a firearm on school property under § 18.2-308.1(B); this offense carries a mandatory minimum term of five years if the firearm is possessed on school property with intention to use or display it in a threatening manner (§ 18.2-308.1(C)). The proposal would include a pneumatic gun (as defined in § 15.2-915.4) in the list of prohibited weapons under §§ 18.2-308.1(B) and 18.2-308.1(C) and, therefore, would be subject to the same penalties.<sup>1</sup>

#### Analysis:

Existing databases do not provide sufficient detail to identify the number of new convictions likely to result from enactment of the proposal. However, individuals convicted under the proposal may be sentenced similarly to offenders who are currently convicted for violating § 18.2-308.1.

<sup>1</sup> Under current law, felony offenses defined in § 18.2-308.1 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.

**Offenders Convicted of Selected 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
Firearm, possess on school property, etc. (§ 18.2-308.1 (B)) – Class 6 felony <sup>a</sup>	10	60%	40%	5 mos.	N/A	N/A
Firearm, use or attempt to use on school property, etc.– Class 6 felony (§ 18.2-308.1(C)) <sup>b</sup>	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 in the sentencing event.

Sources: <sup>a</sup> Virginia Criminal Sentencing Commission - Sentencing Guidelines Database, FY2022-FY2023;

<sup>b</sup> Supreme Court of Virginia - Circuit Court Case Management System (CMS), FY2022-FY2023.

**Impact of Proposed Legislation:**

**State adult correctional facilities.** By including a pneumatic gun in the list of prohibited weapons, the proposal expands the applicability of existing felony offenses defined in § 18.2-308.1. In this way, the proposal may increase the future state-responsible (prison) bed space 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 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.

**Adult community corrections programs.** Because the proposal could result in felony 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.** Felony convictions under § 18.2-308.1(B) are covered by the Sentencing Guidelines as the primary, or most serious, offense. Felony convictions under § 18.2-308.1(C) are not covered by the Guidelines when this crime is the or most serious offense. Such convictions may augment the Guidelines recommendation (as additional offenses) if the most serious offense at sentencing is covered by the Guidelines. The felony offense under § 18.2-308.1(C) is defined as violent in § 17.1-805(C) for Guidelines purposes; the felony offense under § 18.2-308.1 is not defined as violent. 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.