



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 99
Amendment in the Nature of a Substitute
Proposed by the House Committee on Public Safety
(Patron Prior to Substitute – Ebbin)

LD#: 24107774

Date: 02/16/2024

Topic: Carrying certain firearms in public areas

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 § 18.2-287.4 of the *Code of Virginia* to prohibit the carrying of certain semi-automatic center-fire rifles or shotguns on any public street, road, etc., or in any public park or other place open to the public in any locality in the Commonwealth. The proposal provides an expanded list of firearms, whether loaded or unloaded, to which the prohibition applies. The proposal specifies that any member of a cadet corps who is recognized by a public institution of higher education would be exempted from the prohibition if such member is in the performance of sanctioned military training or is participating in an official ceremonial event for the Commonwealth. The proposal also specifies that law-enforcement officers are not exempted from the prohibition when they are not engaged in the performance of their lawful duties. Lastly, the proposal also removes the exemptions for licensed security guards, persons with valid concealed handgun permits, and any retired law-enforcement officer pursuant to § 18.2-308.016 provided in current *Code*.

Currently, under § 18.2-287.4, it is a Class 1 misdemeanor for a person to carry a loaded semi-automatic firearm with specified features and equipped with a magazine that holds more than 20 rounds or a shotgun with a magazine that will hold more than seven rounds in public areas in the cities of Alexandria, Chesapeake, Fairfax, Falls Church, Newport News, Norfolk, Richmond, or Virginia Beach or in the counties of Arlington, Fairfax, Henrico, Loudoun, or Prince William. The proposal would expand this provision to prohibit possession of these types of firearms in public places in any locality.

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.

Analysis:

Existing databases do not provide sufficient detail to identify the number of new convictions likely to result from enactment of the proposal.

According to fiscal year (FY) 2018 through FY2023 General District Court Case Management System (CMS) data, 255 offenders were convicted of a Class 1 misdemeanor under § 18.2-287.4 for carrying a loaded firearm into a prohibited area. The majority (66.3%) of these offenders did not receive an active term of incarceration to serve after sentencing. The median sentence for the 33.7% who were sentenced to a local-responsible (jail) term was two months.

Offenders convicted of the affected 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 the same six-year period, 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.¹

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 existing offenses, 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. 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.

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.

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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