



## **Fiscal Impact Statement for Proposed Legislation**

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### **Virginia Criminal Sentencing Commission**

#### **House Bill No. 1335** **(Patron – Wilt)**

**LD#:** 22104973

**Date:** 01/27/2022

**Topic:** Possession of weapons

#### **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 552 of the Acts of Assembly of 2021, 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.

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#### **Summary of Proposed Legislation:**

The proposal amends § 18.2-308.1, relating to the possession of certain weapons on school property.

Currently, under § 18.2-308.1, it is a Class 1 misdemeanor to possess certain weapons on (i) the property of any child day center or public, private, or religious preschool, elementary, middle, or high school, (ii) the portion of any property open to the public that is being used exclusively for school sponsored functions or extracurricular activities, or (iii) any school bus owned or operated by any such school. If the offender possesses a firearm, the penalty is increased to a Class 6 felony. Possession of a firearm with the intent to use it or displaying a firearm in a threatening manner on school property is also a Class 6 felony and carries a five-year mandatory minimum term of incarceration.

The proposal expands the applicability of these provisions by expanding the definition of a child day center to include centers that are not required to be licensed under Chapter 14.1 (§ 22.1-289.030 et seq.) of Title 22.1.

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#### **Analysis:**

The Sentencing Guidelines database for fiscal year (FY) 2016 through FY2021 indicates that 33 offenders were convicted of a Class 6 felony under § 18.2-308.1(B) for possessing a firearm on school property. The firearm offense was the primary, or most serious, offense in 19 of the cases. The majority (73.7%) of these offenders did not receive an active term of incarceration to serve after sentencing. Another 21% of the

offenders were given a local-responsible (jail) term for which the median sentence was 4.5 months. The remaining 5.3 % received a state-responsible (prison) term with a median sentence of one year.

According to the Circuit Court Case Management System (CMS) for the same period, there was only one conviction of possessing a firearm on school property with the intent to use such firearm under § 18.2-308.1(C). It was not the primary, or most serious, offense in the sentencing event.

According to the General District Court CMS for the same period, 75 offenders were convicted of a Class 1 misdemeanor for possessing a weapon other than a firearm on school property under § 18.2-308.1(A). The majority (77.3%) of these offenders did not receive an active term of incarceration to serve after sentencing. The remaining 22.7% were sentenced to jail terms with a median sentence of one month.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding the applicability of existing 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 additional felony convictions likely to result from enactment of the proposal. Therefore, the impact of the proposal cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal may increase local-responsible (jail) bed space needs. Because the number of new convictions that may result from enactment of the proposal cannot be determined, the magnitude of the impact on jail bed space needs 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 cannot be quantified.

**Virginia's Sentencing Guidelines.** Felony violations of § 18.2-308.1(B) are covered by the Sentencing Guidelines. Felony convictions under § 18.2-308.1(C) are not covered by the Sentencing Guidelines when the offense is the primary (or most serious) offense in a case. Such a conviction, however, could augment the Guidelines recommendation if the most serious offense at sentencing is covered by the Guidelines. No adjustment to the Guidelines is 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.

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**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 552 of the 2021 Acts of Assembly, 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.**