



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 399 (Patron – Simon)

LD#: 22103868

Date: 01/07/2022

Topic: Sale or possession of undetectable plastic firearms and components

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.

Summary of Proposed Legislation:

The proposed legislation amends § 18.2-308.5 of the *Code of Virginia* and adds § 18.2-308.5:2 to the *Code*, relating to the manufacture, import, sale, transfer, or possession of plastic firearms and unfinished frames or receivers and unserialized firearms.

Currently, under § 18.2-308.5, it is a Class 5 felony for any person to sell, possess, etc., any plastic firearm as defined in that section. The proposed legislation would expand the Class 5 felony defined in § 18.2-308.5 (A) to include any firearm with a major component that when subjected to inspection by the types of detection devices, including X-ray machines, commonly used at airports for security screening does not generate an image that accurately depicts the shape of the component. It also adds in § 18.2-308.5 (B) the definitions of “major component” of a firearm and a “plastic firearm”.

The proposal adds § 18.2-308.5:2 to the *Code*. Under the proposed § 18.2-308.5:2 (B), it would be unlawful for any person to knowingly possess, transport, or receive an unfinished frame or receiver unless the party possessing, transporting, or receiving it is an importer, a manufacturer, or a dealer, or it is required by federal law to be, and has been, imprinted with a serial number by an importer, a manufacturer, or a dealer. Under the proposed § 18.2-308.5:2 (C), it would be unlawful for any person to knowingly sell, offer to sell, transfer, or purchase an unfinished frame or receiver unless the transferee or party purchasing it is an importer, a manufacturer, or a dealer or it is required by federal law to be, and has been, imprinted with a serial number by an importer, a manufacturer, or a dealer. The proposal

specifies that any person who violates § 18.2-308.5:2 would be guilty of a Class 1 misdemeanor. A second or subsequent violation under this provision would be punishable as a Class 4 felony.

This legislation also includes a delayed effective date of January 1, 2023, for the proposed provisions of § 18.2-308.5:2 (B).

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2016 through FY2021, there were no convictions under § 18.2-308.5 during the most recent six-year period.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding an existing felony and creating a new felony offense for which imprisonment is authorized, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, 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 defining new crimes and expanding an existing felony, the proposal may also increase local-responsible (jail) bed space needs, but 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 state 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 § 18.2-308.5 are not covered by the Sentencing Guidelines when this offense is the primary, or most serious, offense in a case. As a new felony, conviction under the proposed § 18.2-308.5:2 also would not be covered. However, convictions under these statutes could augment the Guidelines recommendation if the most serious offense at sentencing is covered by 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. 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 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 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, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.