



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 590 (Patron – VanValkenburg)

LD#: 22103827

Date: 01/10/2022

Topic: Storage of firearms; minor present

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)*
- **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

* 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 adds § 18.2-308.7:1 to the *Code of Virginia* relating to the storage of firearms in a residence where a minor is present. The proposal requires any person who possesses a firearm in a residence where such person knows, or reasonably should know, that a minor is present to store such firearm unloaded in a locked container, compartment, or cabinet, and to store all ammunition in a separate locked container, compartment, or cabinet. The bill requires that the key or combination to such containers or cabinets be inaccessible to minors. Violation of this section is a Class 1 misdemeanor and, in a case where more than one firearm is stored in violation of these provisions, each firearm shall constitute a separate Class 1 misdemeanor. The bill provides exemptions for any person in lawful possession of a firearm who exercises immediate control of such firearm, as defined in the bill, and when the firearm is an antique firearm.

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.

Analysis:

Existing data sources do not contain sufficient detail to estimate the number of new convictions that may result from the proposal's enactment.

Individuals convicted of certain Class 1 misdemeanor weapons offenses who accumulate three or more such convictions may be found guilty of a Class 6 felony under § 18.2-311.2. According to the Circuit Court Case Management System (CMS) data for fiscal year (FY) 2016 through FY2021, two 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 not the primary, or most serious, offense in either case. One offender, whose primary offense was possession of a firearm by a convicted felon, received a state-responsible (prison) sentence of four years (two years for the primary offense and two years for the third or subsequent weapon offense). The remaining offender, whose primary offense was attempted robbery, was not sentenced to an active term of incarceration.

Impact of Proposed Legislation:

State adult correctional facilities. Offenders convicted of the Class 1 misdemeanor offense under the proposed § 18.2-308.7:1 could, in the future, be convicted of a Class 6 felony under § 18.2-311.2 if they accumulate three or more weapon convictions. In the six most recent fiscal years, however, no offender has been convicted of a felony under § 18.2-311.2 as the primary (or most serious) offense at sentencing (i.e., in each case, the Class 6 felony conviction under § 18.2-311.2 accompanied a more serious felony offense). Therefore, the proposal is not expected to impact the state-responsible (prison) bed space needs of the Commonwealth during the six-year window specified by § 30-19.1:4 for legislative impact statements.

Local adult correctional facilities. By defining a new Class 1 misdemeanor and expanding an existing felony, the proposal may 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 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 in a case. Convictions under the proposed § 18.2-308.7:1 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 is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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