



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 643 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Ebbin)

LD#: 22106493

Date: 02/14/2022

Topic: Remove, change, etc., serial number on a firearm

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 § 18.2-311.1 of the *Code of Virginia* relating to removing or changing the serial number on a firearm. The proposal makes it a Class 1 misdemeanor for any person, firm, association, or corporation to knowingly possess a firearm that has a serial number that has been willfully removed, changed, destroyed, or obliterated in any manner. The bill also makes it a Class 6 felony for any person, firm, association, or corporation to knowingly sell, give, or distribute any firearm with a serial number that has been willfully removed, changed, destroyed, or obliterated in any manner. As proposed, these provisions would not apply to machine guns or antique firearms as fined in § 18.2-308.2:2.

Currently, under § 18.2-311.1, any person, firm, association, or corporation who or which intentionally removes, alters, or defaces (or causes to be removed, altered, or defaced) the name of the maker, model, serial number, or any other mark or identification on a firearm is guilty of a Class 1 misdemeanor.

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.

Analysis:

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

According to the General District Court CMS data for FY2016 through FY2021, a misdemeanor conviction for violating § 18.2-311.1 was the primary, or most serious, offense in 28 cases sentenced

during this time period. Eleven offenders (39.3%) did not receive an active term of incarceration to serve after sentencing. The remaining offenders (60.7%) received local-responsible (jail) terms with a median sentence of approximately 15 days.

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. 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. By creating a new Class 6 felony and expanding the applicability of an existing Class 6 felony, 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 felony and misdemeanor offenses 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. Convictions under the proposed § 18.2-311.1 also would not be covered. However, convictions under these statutes could augment the Guidelines recommendation (as additional offenses) 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, 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.