



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 1597 (Patrons – Feggans and Reaser)

LD#: 25103182

Date: 01/06/2024

Topic: Storage of firearms

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: \$50,000 * • Local Adult Correctional Facilities: Cannot be determined • Adult Community Corrections Programs: Cannot be determined 	<ul style="list-style-type: none"> • Juvenile Correctional Centers: Cannot be determined ** • Juvenile Detention Facilities: Cannot be determined ** <p>** Provided by the Department of Juvenile Justice</p>
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* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2024, 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 adds §§ 18.2-308.7:1 through 18.2-308.7:3 relating to the secure storage of firearms. The proposal creates a Class 4 misdemeanor for any person who fails to securely store a firearm on any premises where such person knows, or reasonably should know, that a minor or a person who is prohibited by law from possessing a firearm is, or is likely to be, present. The penalty is increased to a Class 1 misdemeanor if a minor or a person prohibited by law from possessing a firearm obtains such firearm and to a Class 5 felony if, once obtained, the firearm is used to commit a crime or to injure any person.¹ The bill includes certain exceptions and requires firearms dealers to post a notice stating firearm storage requirements and the penalty for improperly storing such firearms.

The proposal also creates a Class 4 misdemeanor for failing to securely store a firearm in an unattended vehicle, a Class 1 misdemeanor if another person obtains such firearm, and a Class 5 felony if, once obtained, the firearm is used in the commission of a crime or to injure any person.¹

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. The proposed Class 1 misdemeanors would be covered by this enhanced penalty provision.

¹ The proposed felonies would be 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.

Under current law, which the bill does not change, it is a Class 1 misdemeanor for any person to recklessly leave a loaded, unsecured firearm in such a manner as to endanger the life or limb of any child under the age of 14 (§ 18.2-56.2). Prior to July 1, 2020, this offense was a Class 3 misdemeanor.

Currently, under § 18.2-371.1(B), any parent, guardian, or other person responsible for the care of a child under the age of 18 is guilty of a Class 6 felony if his willful act or omission in the care of such child was so gross, wanton, and culpable as to show a reckless disregard for human life.

Analysis:

Existing data sources do not contain sufficient detail to identify the number of individuals who could be convicted of the proposed Class 1 misdemeanors or Class 5 felonies.

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 Circuit Court Case Management System (CMS) data for fiscal year (FY) 2019 through FY2024, eight 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 three offenders; of these, one offender was given a local-responsible (jail) term of eleven months, while the remaining two offenders received state-responsible (prison) terms of 1.3 years and 1.5 years.

According to General District Court CMS data for the same six-year period, 14 offenders were convicted of a Class 1 misdemeanor under § 18.2-56.2(A) for leaving a loaded, unsecured firearm in such a manner as to endanger the life or limb of a child under the age of 14. Four of the 14 were convicted while the offense was classified as a Class 3 misdemeanor (punishable by fine only). Of the ten defendants who committed the offense on or after July 1, 2020, five were sentenced to a local-responsible (jail) sentence with a median sentence of 2.0 months and the remaining five did not receive an active term of incarceration to serve after sentencing.

According to Sentencing Guidelines data for the same six-year period, 850 offenders were convicted of a Class 6 felony under § 18.2-371.1(B) for gross, wanton, and reckless care of a child as their primary (or most serious) offense at sentencing. Of these, 40.1% received a local jail term with a median sentence of 3.2 months. Another 16.5% received a prison term with a median sentence of 1.5 years. The remaining 43.4% did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. By establishing new Class 5 felonies, 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 the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the impact of the proposal on local-responsible (jail) bed space needs cannot be quantified.

Adult community corrections resources. The impact on state community corrections resources and local community-based probation services cannot be estimated.

Virginia’s Sentencing Guidelines. The proposed Class 5 felonies would not be covered by the Sentencing Guidelines as the primary, or most serious, offense in a case; however, such convictions could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. The proposed felonies would not be 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.

Juvenile correctional centers. 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 2 of the Acts of Assembly of 2024, 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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