



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill 886

Amendment in the Nature of Substitute

(Patron prior to substitute – Perry)

LD#: 25105307

Date: 01/21/2025

Topic: Definition of trigger activator on a semi-automatic firearm

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 Direct Care: 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 amends § 18.2-308.5:1 to modify the definition of a “trigger activator” as it pertains to the manufacture, importation, sale, possession, transfer, or transportation of these devices in the Commonwealth. Currently, § 18.2-308.5:1 defines a trigger activator as “a device designed to allow a semi-automatic firearm to shoot more than one shot with a single pull of the trigger by harnessing the recoil energy of any semi-automatic firearm to which it is affixed so that the trigger resets and continues firing without additional physical manipulation of the trigger by the shooter.” This provision became effective on July 1, 2020.

The proposal re-defines a trigger activator as a conversion kit, tool, accessory, or device designed to alter the rate of fire of a semi-automatic firearm to mimic automatic weapon fire or to increase the rate of fire to a rate faster than such semi-automatic firearm can achieve when not equipped with a conversion kit, tool, accessory, or device.

Violation of § 18.2-308.5:1 is a Class 6 felony.¹

¹ Under current law, the felony offense defined in § 18.2-308.5:1 is eligible for the enhanced sentence credits specified in § 53.1-202.3. The proposed legislation does not change the earned sentence credits available to offenders convicted of this felony.

Analysis:

According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2019 to FY2024, since July 1, 2020, 15 offenders were convicted under § 18.2-308.5:1 for the manufacture, importation, sale, possession, transfer, or transportation of a trigger activator. In six of these cases, this was the primary, or most serious, offense in the sentencing event. Of these six sentencing events, two defendants (33.3%) did not receive an active term of incarceration, three defendants (50.0%) received a local-responsible (jail) sentence with a median sentence of 1.5 months, and one defendant (16.7%) received a state-responsible (prison) sentence of 1.6 years.

Impact of Proposed Legislation:

State adult correctional facilities. By potentially expanding the applicability of an existing Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. 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, by expanding the applicability of existing offenses, the proposal may increase local-responsible (jail) bed space needs. Because the number of new convictions resulting from the proposal cannot be determined, the magnitude of the impact on jail beds cannot be quantified.

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 resources cannot be estimated.

Virginia's Sentencing Guidelines. Convictions under § 18.2-308.5:1 are not covered by the Guidelines as the primary (or most serious) offense. Such a conviction could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. This offense is not 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 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 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.