



## Fiscal Impact Statement for Proposed Legislation

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### Virginia Criminal Sentencing Commission

#### Senate Bill 1220 Amendment in the Nature of Substitute (Patron prior to substitute – DeSteph)

**LD#:** 25105666

**Date:** 01/24/2025

**Topic:** Possession or transportation of firearms by certain persons

#### 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 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.

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#### Summary of Proposed Legislation:

Currently, under § 18.2-308.2, any person who 1) has been convicted of a felony, 2) was adjudicated as a juvenile 14 years of age or older for certain offenses, or 3) is under age 29 and was adjudicated as a juvenile 14 years of age or older for an offense that would be felony if committed by an adult is prohibited from possessing or transporting a firearm, ammunition, stun weapon, or any explosive material. Violation of § 18.2-308.2 is a Class 6 felony.<sup>1</sup> Any person who violates this section by possessing a firearm and who was previously convicted of a violent felony as defined in § 17.1-805 must be sentenced to a mandatory term of five years. Any person who violates this section by possessing a firearm and who was previously convicted of any other felony within the prior 10 years must be sentenced to a mandatory minimum term of two years. The mandatory minimum terms of imprisonment must be served consecutively with any other sentence.

The proposal amends § 18.2-308.2 to prohibit any individuals who have been convicted of a violent felony as described in § 17.1-805(C) from possessing or transporting any air-operated or gas-operated weapon similar in appearance to a firearm.

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#### Analysis:

Existing data sources do not contain sufficient detail to estimate the number of additional offenders who would be subject to the Class 6 felony defined in § 18.2-308.2.

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<sup>1</sup> Under current law, the felony offenses defined in § 18.2-308.2 are 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. The proposed legislation does not change the earned sentence credits available to offenders convicted of this felony.

Sentencing information for offenders convicted under § 18.2-308.2 can be found in the table below.

**Offenders Convicted of Select Felony Firearm Offenses, FY2023-FY2024**

Primary Offense	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence
Convicted felon possess firearm – Nonviolent prior felony more than 10 years before	767	28.7%	33.6%	7 mos.	37.7%	1.5 yrs.
Convicted felon possess firearm – Nonviolent prior felony within 10 years	509	2.7%	2.6%	7 mos.	94.7%	2.0 yrs.
Convicted felon possess firearm – Violent prior felony	116	2.6%	7.7%	7 mos.	89.7%	5.0 yrs.
Convicted felon possess ammunition, other weapon, etc.	335	34.6%	39.7%	7 mos.	25.7%	1.2 yrs.

Note: Analysis is based on cases in which the specified offense was the primary, or most serious, offense in the sentencing event.

Analysis includes attempted, conspired, and completed acts.

Source: Virginia Criminal Sentencing Commission Guidelines Database, FY2023-FY2024.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding the applicability of an existing Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth above what would otherwise be needed. Existing databases do not provide sufficient detail to estimate the number of offenders who would be affected by the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

**Adult community corrections resources.** 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 affected cannot be determined, the potential impact on community corrections cannot be estimated.

**Virginia’s Sentencing Guidelines.** Felony convictions under § 18.2-308.2 are covered by the Sentencing Guidelines as the primary (most serious) offense. Felony offenses in § 18.2-308.2 are defined as violent in § 17.1-805(C) for Guidelines purposes. 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.** According to the Department of Juvenile Justice, the impact of the proposal 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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