



# Fiscal Impact Statement for Proposed Legislation

## Virginia Criminal Sentencing Commission

### House Bill 2241 Amendment in the Nature of Substitute (Patron prior to substitute – Tran)

LD#: 25105863

Date: 2/7/2025

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.

#### Summary of Proposed Legislation:

The proposal amends § 18.2-308.2 to prohibit a person from possessing or transporting a firearm, ammunition, stun weapon or explosive material if he is convicted of a misdemeanor assault and battery and he intentionally selected the person against whom the assault and battery was committed because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or ethnic or national origin. A violation would be punishable as a Class 1 misdemeanor. Individuals convicted of certain Class 1 misdemeanor firearm offenses who accumulate three or more such convictions may be found guilty of a Class 6 felony under § 18.2-311.2.<sup>1</sup>

The proposal would also expand the potential applicability of a felony offense defined under § 18.2-308.2:2(K), making a materially false statement on a consent form that is required to purchase a firearm from a licensed dealer. The proposal adds a question to the consent form asking whether the prospective buyer has previously been convicted of a misdemeanor assault and battery hate crime under §18.2-57(A). Currently, it is a Class 5 felony under § 18.2-308.2:2(K) to make a materially false statement on the consent form.<sup>1</sup>

<sup>1</sup> All felony offenses affected by the proposal 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 these felonies.

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**Analysis:**

According to General District Court Case Management System (CMS) data for fiscal year (FY) 2019 through FY2024, a misdemeanor hate-crime assault (under the existing § 18.2-57(A)) was the primary, or most serious, offense at sentencing for 44 offenders. Of these, 26 offenders (59.1%) were sentenced to local-responsible (jail) terms with a median sentence length of 2.4 months. The remaining 18 offenders (40.9%) did not receive an active term of incarceration to serve after sentencing.

Circuit Court CMS data for the same six-year period indicate that another 22 offenders were convicted in circuit court of a misdemeanor hate-crime assault under § 18.2-57(A) as the primary offense (for these offenders, all felony charges were nolle prossed, dismissed, resulted in a not guilty finding, or were reduced to misdemeanors). Of these, 77.3% were sentenced to a local-responsible (jail) term with a median sentence of 6.0 months. The remaining offenders did not receive an active term of incarceration to serve after sentencing.

Under the proposal, individuals convicted of a misdemeanor hate-crime assault would be subject to a Class 1 misdemeanor under the proposed § 18.2-308.2 (A1) if they subsequently possess or transport a firearm or other prohibited weapon. 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 CMS data for the same six-year period, 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 jail term of 11.0 months, while the remaining two offenders received state-responsible (prison) terms of 1.3 years and 1.5 years.

Also, an analysis of FY2023-FY2024 Circuit Court CMS data revealed that 286 offenders were convicted of a Class 6 felony under § 18.2-308.2:2 (K) for making materially false statements on firearm consent form as their primary (or most serious) offense at sentencing. Of these, 21% received a local jail term with a median sentence of 6.0 months. Another 2.4% received a prison term with a median sentence of 2.0 years. The remaining 76.6% did not receive an active term of incarceration to serve after sentencing.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding the applicability of existing felonies for which imprisonment is authorized, the proposal is expected to increase the state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be quantified.

**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 § 18.2-308.2:2 (K) are covered by the Sentencing Guidelines. The Class 6 felony under § 18.2-311.2 is not currently 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. 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.

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**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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