



Fiscal Impact Statement for Proposed Legislation
Virginia Criminal Sentencing Commission

House Bill 1869
Amendment in the Nature of Substitute
(Patron prior to substitute – McClure)

LD#: 25106997

Date: 02/10/2025

Topic: Possession or transportation of firearms following certain convictions

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:

Currently, under § 18.2-308.1:8 it is a Class 1 misdemeanor for any person to purchase, possess, or transport a firearm during the three-year period following a misdemeanor conviction for assault and battery against a family or household member. The proposal establishes a new version of the Class 1 misdemeanor using an expanded definition of family or household member for assaults that occur on or after July 1, 2025, that would add the following persons: (i) any individual who cohabits or who, within 12 months, cohabitated with the person, or (ii) any individual who has recently had a continuous serious relationship or a romance or intimate nature with the person.

Under current law, anyone who sells or furnishes a firearm to a person ineligible to receive such a weapon, due to that individual’s prior conviction for assault and battery of a family or household member or their presence on the Commonwealth’s Do Not Sell List, is guilty of a Class 1 misdemeanor under § 18.2-308.2:1.

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 § 18.2-311.2.¹

¹ Under current law, felony offense defined in § 18.2-311.2 is 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.

The proposal also amends § 16.1-228, expanding the definition of a “family or household member” to include any individual who has recently had a dating relationship as that term is defined in 18 U.S.C §921(a)(37)(A) and described in (a)(37)(B) and (a)(37)(C). This language expands the applicability of § 18.2-57.2 regarding assault of a family or household member. A violation of this section is a Class 1 misdemeanor; a third or subsequent conviction is a Class 6 felony.²

Analysis:

According to the General District Court Case Management System (CMS) for fiscal year (FY) 2023 and FY2024, 47 offenders were convicted of possessing, purchasing, or transporting a firearm following a misdemeanor conviction for assault and battery of a family or household member under § 18.2-308.1:8. Of these, 20.9% received local-responsible (jail) terms with a median sentence of 10 days. The remaining 79.1% of offenders did not receive an active term of incarceration to serve after sentencing. Eight offenders were convicted of a Class 1 misdemeanor for selling or furnishing a firearm to an ineligible person under § 18.2-308.2:1; one of these individuals received an active jail term (sentence of 10 days).

Offenders convicted of a Class 1 misdemeanor under § 18.2-308.1:8 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 CMS data for FY2019-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 the Juvenile and Domestic Relations Court CMS data for FY2023 and FY2024, 7,404 offenders were convicted of simple assault of a family or household member under § 18.2-57.2. For the 38.0% who received active jail terms, the median sentence was 1.3 months.

Based on Circuit Court CMS data for the same two-year period, 442 offenders were convicted of a third or subsequent assault on a family member (§ 18.2-57.2); for 374 offenders, this offense was their primary offense at sentencing. Of these, 49.7% were sentenced to jail with a median sentence of seven months. Another 30.7% were sentenced to prison with a median sentence of 1.8 years. The remaining 19.5% of offenders did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of existing felonies, 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. By expanding the applicability of existing felony and misdemeanor provisions and creating a new Class 1 misdemeanor, 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 misdemeanor and felony 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.

² Under current law, the felony offense defined in § 18.2-57.2 does not qualify for the enhanced sentence credits specified in § 53.1-202.3 and an offender convicted of this felony will serve a minimum of 85% of the court’s sentence. The proposed legislation does not change the earned sentence credits available to these offenders.

Virginia's Sentencing Guidelines. Felony convictions under § 18.2-57.2 are covered by the Sentencing Guidelines when this offense is the primary (most serious) offense. This offense is defined as violent under § 17.1-805(C) for the purposes of the Guidelines. Felony convictions under § 18.2-311.2 are not covered by the Guidelines; such a conviction, however, 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 of the Code of Virginia, 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 of the Code of Virginia, 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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