



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill 1329 Amendment in the Nature of Substitute (Patron prior to substitute – Marsden)

LD #: 25107958

Date: 02/21/2025

Topic: Carrying concealed weapons, etc.

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:

Currently, under § 18.2-308, it is a Class 1 misdemeanor to carry a concealed weapon. A second violation under this section is a Class 6 felony and a third or subsequent violation is a Class 5 felony. This section specifies several exceptions to the prohibition on carrying a concealed weapon. Currently, the prohibition does not apply to any person who may lawfully possess a firearm who is carrying a handgun while in a personal, private motor vehicle or vessel, and such handgun is secured in a container or compartment in the vehicle or vessel. The proposal amends § 18.2-308 to remove this exception.

Furthermore, the proposal adds § 18.2-308.7:1 relating to the secure storage of firearms in unattended vehicles. The proposal establishes a civil penalty of up to \$500 for any person who leaves a visible handgun in an unattended vehicle. The proposal creates a Class 4 misdemeanor for any person who fails to securely store a firearm in an unattended motor vehicle or who fails to report a theft or loss of a firearm from a vehicle; violation of this subsection would be a Class 1 misdemeanor if another person obtains the firearm from the vehicle.

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 misdemeanor would be covered by this enhanced penalty provision.¹

Analysis:

Existing databases do not provide sufficient detail to identify the number of new convictions likely to result from enactment of the proposal.

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.

Moreover, individuals convicted under the proposed § 18.2-308 (relating to carrying concealed weapons) may be sentenced similarly to offenders who are currently convicted in violation of the same section (see table below).

Offenders Convicted of Selected 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
Carry concealed weapon, first – Class 1 misd. (§ 18.2-308(A)) ^a	2,465	72.1%	27.9%	1 mo.	N/A	N/A
Carry concealed weapon, second (§ 18.2-308 (A)) – Class 6 felony ^b	124	41.2%	41.9%	3.8 mos.	16.9%	2.0 yrs.
Third or subsequent carry concealed weapon (§ 18.2-308 (A)) – Class 5 felony ^b	22	4.5%	45.5%	6 mos.	50.0%	1.5 yrs.

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

Sources: ^aSupreme Court of Virginia - General District Court Case Management System (CMS), FY2023-FY2024;

^bSupreme Court of Virginia - Circuit Court Case Management System (CMS), FY2023-FY2024;

Impact of Proposed Legislation:

State adult correctional facilities. The proposal expands the applicability of existing felony offenses defined in §§ 18.2-308 and 18.2-311.2. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. 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 determined.

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

Adult community corrections programs. Because the proposal could result in 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.

¹ Under current law, felony offenses defined in §§ 18.2-308 and 18.2-311.2 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 these felonies.

Virginia's 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, felony convictions under § 18.2-308(A) are covered by the Sentencing Guidelines as the primary, or most serious, offense. Misdemeanor convictions under § 18.2-308 or felony offenses under 18.2-311.2 may augment the Guidelines recommendation (as additional offenses) if the most serious offense at sentencing is covered by the Guidelines. Felony offenses under §§ 18.2-308 and 18.2-311.2 are not defined as violent in § 17.1-805(C) for Guidelines purposes. 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.

firearm57_7958