



Fiscal Impact Statement for Proposed Legislation
Virginia Criminal Sentencing Commission

House Bill No. 2128
(Patron – Lopez)

LD#: 21102376

Date: 1/4/2021

Topic: Sale or transfer of firearms

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: None (\$0) • Local Adult Correctional Facilities: Cannot be determined, likely to be small • Adult Community Corrections Programs: Cannot be determined, likely to be small 	<ul style="list-style-type: none"> • Juvenile Direct Care: None (\$0)* • Juvenile Detention Facilities: None (\$0) * <p>* Provided by the Department of Juvenile Justice</p>
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* 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 proposed legislation amends § 18.2-308.2:2 relating to the sale or transfer of firearms by licensed dealers. Currently, under § 18.2-308.2:2(B2), if a firearms dealer requests a criminal history background check from the Virginia State Police for a prospective buyer, as required by this section, and the dealer is told by the State Police that a response will not be available by the end of the third business day, the dealer may immediately complete the sale or transfer and will not be deemed in violation of the requirements of this section. The 2020 General Assembly enacted legislation that extended this waiting period from one to a maximum of three business days. Pursuant to subsection L, it is a Class 6 felony for a dealer to sell or transfer a firearm in violation of the provisions of § 18.2-308.2:2.

The proposal increases the time provided for the State Police to complete a background check before a firearm may be transferred from three to five business days.

Analysis:

Existing data sources do not contain sufficient detail to identify the number of dealers who will unlawfully sell or transfer a firearm as a result of the proposed change.

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2015 through FY2020, one dealer was convicted of completing an illegal sale or transfer of a firearm in violation of

the existing provisions of § 18.2-308.2:2 during the six-year period. The data do not specify the way in which the dealer violated the provisions. This individual, who was also convicted of another (more serious) felony, was sentenced to a local-responsible (jail) term of two months.

Impact of Proposed Legislation:

State adult correctional facilities.¹ The proposal increases the length of time a dealer must wait for a response from the State Police before completing a firearm sale. In this way, the Class 6 felony for dealer violations could potentially apply in additional circumstances. During the most recent six-year period, however, no firearms dealer has been convicted under § 18.2-308.2:2(L) and been sentenced to a state-responsible (prison) term; therefore, the proposal is unlikely to have an impact on the prison bed space needs of the Commonwealth during the six-year projection window specified by § 30-19.1:4 for legislative impact statements.

Local adult correctional facilities. The proposal may increase local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined. Any impact is likely to be small.

Adult community corrections programs. The potential impact on community corrections programs cannot be quantified but is likely to be small.

Virginia's sentencing guidelines. Felony convictions under § 18.2-308.2:2(L) are not covered by the sentencing guidelines when this offense is the primary, or most serious, offense in a case. However, convictions under these statutes could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the proposal is not expected to impact direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to impact the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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