



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 566

(Patron – Albo)

Date Submitted: 1/14/04

LD #: 04-0936204

Topic: Computer crimes

Proposed Change:

This proposal amends §§ 18.2-152.4 and 18.2-152.12 of the Virginia Computer Crimes Act. The existing § 18.2-152.4, regarding computer trespass, prohibits the unauthorized use of a computer or computer network to remove, disable, alter or erase any data, programs or software from a computer or computer network. The proposed § 18.2-152.4 would also prohibit the unauthorized use of a computer to add data, programs (i.e., computer “viruses” or “worms”) or software to another computer or computer network. The Virginia Computer Crimes Act was revised extensively by the 2003 General Assembly. At this time, the penalty for computer trespass was increased from a Class 3 misdemeanor to a Class 1 misdemeanor, while computer trespass with property damage of \$2,500 or more due to a malicious act continued as a Class 6 felony. Under the proposed § 18.2-152.4, property damage of \$2,500 or more is just one of three “aggravating factors,” any one of which would trigger the felony penalty; the other aggravating factors proposed are: 1) using a virus capable of spreading to other computers or networks, and 2) obtaining the ability to use three or more computers without the permission of (or a prior or existing personal or business relationship with) their owners.

The existing § 18.2-152.12 provides for civil relief for a person who suffers physical injury or whose property is damaged by a violation of any provision of the Virginia Computer Crimes Act. The proposed § 18.2-152.12 alters the language of this section by changing several references from “an injury arising from” a violation to “an injury arising in connection with” a violation.

Data Analysis:

According to fiscal year (FY) 2001 and FY2002 Local Inmate Data System (LIDS) data, one offender was convicted of misdemeanor computer trespass in violation of § 18.2-152.4(A,6); this offender received a local-responsible (jail) sentence of one month. Based on FY2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, there were no convictions for felony computer trespass either as the primary (most serious) offense or as an additional offense in a sentencing event.

Impact of Proposed Legislation:

The proposed legislation may have an impact on state-responsible (prison) beds. The proposal expands the definition of computer trespass to include the unauthorized addition of data, programs or software to a computer or computer network. However, the extent of the impact, if any, cannot be determined with existing criminal justice databases. Similarly, the impact on jails and community corrections cannot be quantified.

Convictions under the proposed legislation would not be covered by the guidelines as the primary (or most serious) offense but could augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the sentencing guidelines would be necessary under the proposal.

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 and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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