



## Impact Analysis on Proposed Legislation

*Virginia Criminal Sentencing Commission*

### House Bill No. 722

*(Patron – Shannon)*

**Date Submitted:** 12/29/03

**LD #:** 04-6644502

**Topic:** Unauthorized possession of credit cards or credit card numbers

#### **Proposed Change:**

The proposed legislation amends § 18.2-194 regarding unauthorized possession of two or more signed credit cards or credit card numbers. According to the proposal, when a person, other than the cardholder or a person authorized by him, possesses two or more signed credit cards or two or more credit card numbers, such possession shall be sufficient evidence that said cards or numbers were obtained in violation of § 18.2-192, relating to the theft of credit cards or credit card numbers. Under current law, such possession is sufficient to conclude that the cards or numbers were obtained in violation of subdivision (1, b) of § 18.2-193, relating to credit card forgery.

Violations of § 18.2-192 include credit card theft, receipt of stolen credit cards or numbers, selling or buying stolen credit cards or numbers, and receipt of two or more stolen credit cards within 12 months. All of these offenses are felonies punishable by a term of imprisonment for one to twenty years. Credit card forgery in violation of § 18.2-193 is a Class 5 felony punishable by a term of imprisonment for one to ten years.

#### **Data Analysis:**

Based on fiscal year (FY) 2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, there were 647 convictions for credit card theft as the primary offense in a sentencing event (see *Background Sentencing Information* below). Of these cases, 47% were sentenced to probation without an active term of incarceration and 25% received local-responsible (jail) terms. The remaining 28% received state-responsible (prison) terms with a median sentence of two years. Also, there were 137 primary offense convictions for credit card forgery under § 18.2-193. Of these, 51% were sentenced to probation and 26% to jail, while 23% received prison terms with a median sentence of 1.6 years.

#### **Background Sentencing Information**

Felony Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State-Responsible Sentence
Credit card theft (§ 18.2-192(1, a))	647	47%	25%	28%	2.0 yrs.
Credit card forgery (§ 18.2-193)	137	51%	26%	23%	1.6 yrs.

Data Source: FY2000 and FY2001 Pre/Post-Sentence Investigation (PSI) database

The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.

**Impact of Proposed Legislation:**

The proposed legislation amends § 18.2-194 to specify that unauthorized possession of credit cards or credit card numbers is sufficient evidence of a violation of § 18.2-192 rather than § 18.2-193. It is unclear whether this will lead to an increase in the number of convictions for violations of § 18.2-192. Criminal justice databases available to the Commission do not contain information on the number of convictions that may accrue under the proposal. Therefore, the magnitude of the expected impact cannot be computed.

Credit card theft and credit card forgery are covered by the sentencing guidelines as the primary (most serious) offense in a sentencing event; the other offenses are not covered, but may augment the guidelines recommendation as additional offenses. 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

creditcard01\_6644