



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2059

(Patron – Byron)

Date Submitted: 1/10/2005

LD #: 05-8962256

Topic: Credit card scanning devices and re-encoders

Proposed Change:

The proposed legislation adds § 18.2-196.1 to make it unlawful for any person, with intent to defraud, to:

- Use a credit card scanning device to access information encoded on the magnetic strip of payment card; or
- Use a re-encoder to transfer information encoded on the magnetic strip of a payment card to different card with intent to defraud.

Under the proposal, the use of such devices is a Class 6 felony for the first violation and a Class 5 felony for any subsequent violation.

Analysis:

Although the proposal creates new crimes, other credit card offenses are defined in existing provisions. For example, forgery of a credit card is a Class 5 felony under § 18.2-193. It is also a Class 5 felony, under § 18.2-194, to unlawfully possess two or more signed credit cards or credit card numbers. Theft of credit cards or credit card numbers, or the receipt, sale or purchase of stolen credit card numbers, under § 18.2-192, is a felony punishable by imprisonment of 1 to 20 years. Under § 18.2-196, it is a Class 6 felony to possess credit card forging devices.

Impact of Proposed Legislation:

As the proposed legislation creates two new felony offenses, the proposal may increase the state-responsible (prison) and local-responsible (jail) bed space needs of the Commonwealth; however, the number of incidents affected by the proposal and the potential increase in felony prosecutions cannot be estimated with available data.

If adopted, offenses defined by the proposal would not be covered by Virginia's sentencing guidelines as the primary (or most serious) offense but may 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.

The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to increase Juvenile Correctional Center (JCC) bed space needs.

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.

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.

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