



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2059 **Amendment in the Nature of a Substitute** ***(Patron Prior to Substitute – Byron)***

Date Submitted: 2/14/2005

LD #: 05-5566256

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 malicious intent, to use a scanning device or re-encoder without the permission of the authorized payment card user. Under the proposal, violation is a Class 1 misdemeanor. It becomes a Class 6 felony if the information derived from a violation of the proposed section is sold or distributed to another, or is used in the commission of another crime.

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. The proposal also creates a new misdemeanor offense which may increase jail bed space needs as well.

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.

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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