

Department of Planning and Budget

2005 Fiscal Impact Statement

1. Bill Number SB 1163

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron Stolle

3. Committee Passed both houses

4. Title Computer crimes

5. Summary/Purpose:

The enrolled bill increases the penalties for several offenses related to computers, as well as sets out new offenses related to the use of computers.

The increased penalties are as follows:

Offense	Current law	Enrolled legislation
Computer trespass	Prohibits unauthorized use of a computer or computer network for several purposes. Penalty: <ol style="list-style-type: none"> 1. Damage less than \$2,500 and non-malicious—Class 1 misdemeanor 2. Damage of \$2,500 or more, or damage result of malicious act—Class 6 felony. 	Prohibits use of computer or computer network for same purposes, but requires that malicious intent be involved. Penalty: <ol style="list-style-type: none"> 1. Damage less than \$1,000—Class 1 misdemeanor 2. Damage \$1,000 or more—Class 6 felony
Computer invasion of privacy	Prohibits use of computer, without authority, to examine employment, credit, or any other financial or personal information of another person. Penalty: Class 1 misdemeanor	Expands prohibition to include reference to specific kinds of identifying information set out in Code. Penalty: <ol style="list-style-type: none"> 1. First violation—Class 1 misdemeanor 2. Subsequent violation—Class 6 felony 3. If information is sold or distributed to another—Class 6 felony 4. If information is used in commission of crime—Class 6 felony

The enrolled bill also expands the definition of larceny and receipt of stolen goods to explicitly include computers, computer networks, financial instruments, computer data, computer programs, computer software, and computer services.

Finally, the enrolled bill makes it a Class 6 felony for anyone, other than a law-enforcement officer, to use a computer to obtain, access, or record, through the use of trickery or deception, any identifying information (as defined elsewhere in the Code) about a person (“phishing”). If the information so obtained were sold or distributed, or used in the commission of another crime, the offense would be a Class 5 felony.

6. Fiscal Impact: Final. See Item 8.

7. Budget amendment necessary: None.

8. Fiscal implications:

The enrolled bill creates several additional Class 5 and 6 felony offenses. For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or 1 to 5 years in prison. For a Class 5 felony, the maximum sentence is 10 years in prison. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Any increase in jail population will increase costs to the state. The Commonwealth pays the localities \$8.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail, \$8.00 a day for each state responsible inmate held for sixty days or less, and \$14.00 a day for each state responsible inmate held for more than sixty days. It also funds most of the jails’ operating costs, e.g. correctional officers. The state’s share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board’s most recent Jail Cost Report (FY 2003), the estimated total state support for local jails averaged \$27.42 per inmate, per day in FY 2003.

Due to the lack of data, the Virginia Criminal Sentencing Commission has determined, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined.

9. Specific agency or political subdivisions affected:

Department of Corrections
Local and regional jails

10. Technical amendment necessary: None.

11. Other comments:

The provisions of this bill related to “phishing” are identical to the provisions of SB 1147, also enrolled. The latter legislation is limited to that issue.

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