Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1009

Amendment in the Nature of a Substitute
(Patron Prior to Substitute – Hurt)

LD#: 06-2860204 **Date:** 1/24/2006

Topic: Substitute checks as evidence

Fiscal Impact Summary:

- **State Adult Correctional Facilities:** Cannot be determined, likely to be small
- **Local Adult Correctional Facilities:** Cannot be determined, likely to be small
- **Adult Community Corrections Programs:** Cannot be determined, likely to be small
- **Juvenile Correctional Centers:** None ($0)
- **Juvenile Detention Facilities:** None ($0)

Summary of Proposed Legislation:

The proposal adds § 8.01-391.1 relating to admissibility of substitute checks as evidence in any criminal or civil legal proceeding. Any substitute check created under the federal Check 21 Act of the *United States Code* with the printed legend: "This is a legal copy of your check. You can use it the same way you would use the original check" is considered to be a substitute check. Any forgery or uttering of a forged substitute check is punishable under § 18.2-172 of the *Code of Virginia* as a Class 5 felony.

Analysis:

According to the Fiscal Year (FY) 2002 and FY2003 Pre/Post-Sentence Investigation (PSI) database, 2,401 offenders were convicted of completed forgery or uttering, under § 18.2-172 as the primary offense in a sentencing event. In most cases, if an offender was convicted of forgery as the primary there was an additional offense of uttering and vice versa. In 39% of the cases, offenders were sentenced to probation. When the sanction was incarceration, offenders were sentenced to a local-responsible (jail) bed with a median sentence of six months in 32% of the cases and to a state-responsible (prison) bed with median sentence of 1 year 7 months in 29% of the cases.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation may increase the state-responsible (prison) bed space needs of the Commonwealth, but the magnitude of that impact cannot be quantified. The databases available to the Commission are insufficiently detailed to identify the number of substitute checks that were forged or uttered, but the number is expected to be small.

Local adult correctional facilities. The proposal may increase the local-responsible (jail) bed space needs, but it is expected to be small.

Adult community corrections programs. The proposal may have an impact on adult community corrections programs; however, it is expected to be small.

Virginia's sentencing guidelines. Violations of § 18.2-172, forgery and uttering, are currently covered by Virginia's sentencing guidelines No adjustment to Virginia's sentencing guidelines is necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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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