



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 322

(Patron – Deeds)

LD #: 06-4351724

Date: 1/6/2006

Topic: Identity theft

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal amends § 18.2-186.3 to create two new felony offenses related to identity theft. Currently under this section, identity theft is generally punishable as a Class 1 misdemeanor. In the following three situations, however, this offense is a Class 6 felony; 1) any violation resulting in financial loss of greater than \$200, 2) any second or subsequent conviction, and 3) any violation resulting in the arrest and detention of the victim. The proposal modifies subsection D of § 18.2-186.3 such that any person who in violation of this section appropriates the identifying information of 10 or more persons is guilty of a Class 3 felony; if the number of victims is 100 or more, the offender is guilty of a Class 2 felony.

Analysis:

According to fiscal year (FY) 2003 and 2004 Local Inmate Data System (LIDS) data, there were 872 convictions for misdemeanor violations of § 18.2-186.3. The majority of these convictions (793) were for unlawfully obtaining identifying information with intent to defraud, a violation of subsection A of § 18.2-186.3. Of these offenders, 12% were sentenced to probation and 88% received local-responsible (jail) terms with a median sentence of just over one month. There were also 62 convictions for unlawfully obtaining identifying information to avoid arrest or impede an investigation. Nearly all (94%) of these offenders received jail terms with a median sentence of just over one month, while the remaining 6% were sentenced to probation. Finally, 17 offenders were convicted of unlawfully obtaining identifying information with intent to sell or distribute it. Approximately 53% of these offenders received jail terms with a median sentence of 1.3 months, while the remaining 47% were given probation.

According to fiscal year (FY) 2002 and 2003 Pre/Post Sentence Investigation (PSI) data, eight offenders were convicted of the portion of subsection D of § 18.2-186.3 where any violation within the statute that results in the arrest and detention of the person whose identification documents or information were used to avoid summons, arrest, prosecution, or to impede a criminal investigation is punishable as a Class 6 felony. Of these, only one offender (12.5%) received a state-responsible (prison) term; his sentence was one year. Of the seven remaining offenders, four (50%) received jail

terms and three (37.5%) were sentenced to probation. One offender was convicted of a second or subsequent violation under this section, receiving a jail term of just over four months.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation creates two new felony offenses related to identity theft. The proposal 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 new felony convictions that may result from identity theft offenses involving 10 or more victims.

Local adult correctional facilities. The proposal may increase the need for additional local-responsible (jail) beds, but the magnitude of that impact cannot be determined.

Adult community corrections programs. The proposal may have an impact on community corrections resources; however, the impact cannot be determined.

Virginia's sentencing guidelines. Violations of § 18.2-186.3 are not currently covered by the sentencing guidelines, but may appear as additional offenses that augment the guidelines recommendation. No adjustment to the 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 (DJJ) 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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