



## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### Senate Bill No. 460

#### *Amendment in the Nature of a Substitute (Patron Prior to Substitute – Devolites Davis)*

LD #: 06-4637726

Date: 2/2/2006

Topic: Identity theft

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$63,684 (3 beds)
- **Local Adult Correctional Facilities:**  
\$7,369 (.78 bed)
- **Adult Community Corrections Programs:**  
None (\$0)

- **Juvenile Correctional Centers:**  
Cannot be determined
- **Juvenile Detention Facilities:**  
Cannot be determined

#### Summary of Proposed Legislation:

The proposal amends § 18.2-186.3 to increase penalties when misdemeanor identity theft involves the identifying information of multiple persons. If the theft of identifying information involves five or more persons, the crime becomes a Class 6 felony. If the theft of identifying information involves 50 or more persons, the crime becomes a Class 5 felony.

#### Analysis:

According to fiscal year (FY) 2003 and 2004 Local Inmate Data System (LIDS) data, there were three convictions for five or more misdemeanor violations of § 18.2-186.3; one involved five counts and was sentenced to 12 days, a second involved 11 counts and was sentenced to almost 10 months, and the third involved 23 counts and was sentenced to 36 months.

#### Impact of Proposed Legislation:

**State adult correctional facilities.** By making misdemeanor identity theft that involves five or more victims a Class 6 felony, the proposal is expected to result in the need for three additional state-responsible (prison) beds by 2012.

#### Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY07	FY08	FY09	FY10	FY11	FY12
1	2	3	3	3	3

**Local adult correctional facilities.** The proposal is expected to result in the need for about one less local-responsible (jail) bed by 2012 (savings to state: \$7,369; savings to localities: \$6,793).

**Estimated Six-Year Impact in Local-Responsible (Jail) Beds**

FY07	FY08	FY09	FY10	FY11	FY12
-1	-1	-1	-1	-1	-1

**Adult community corrections programs.** The proposal may have an impact on community corrections resources; however, the impact cannot be determined. For offenders who are required to serve longer prison terms as a result of the proposal, the need for community corrections services will be delayed until the additional prison time is served.

**Virginia's sentencing guidelines.** Violations of § 18.2-186.3 are not 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 effect of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

**Juvenile detention facilities.** The Department of Juvenile Justice (DJJ) reports that the effect of the proposal on the bed space needs of juvenile detention facilities cannot be determined.

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**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$63,684 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

**Assumptions underlying the analysis include:**

**General Assumptions**

1. State and local responsibility is based on §53.1-20 as analyzed for the Secretary's Committee on Inmate Forecasting in 2005.
2. New cases representing state-responsible sentences were based on the admissions forecast as approved by the Secretary's Committee on Inmate Forecasting in July 2005.
3. Cost per prison bed was assumed to be \$23,966 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.*
4. Cost per jail bed was based on The Compensation Board's FY2004 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$26.03 per day or \$9,506 per year. The local cost was calculated by using the daily expenditure cost of \$54.37 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$23.99 per day or \$8,763 per year. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.*

**Assumptions relating to sentence lengths**

1. The impact of the proposed legislation, which would be effective on July 1, 2006, is phased in to account for case processing time.
2. The state-responsible bed-space impact was derived by estimating the difference between expected dates of release under current law and under the proposed legislation. Release dates were estimated based on the average rates at which inmates in Department of Corrections' facilities were earning sentence credits as of December 31, 2004. For felonious frauds, this rate was 11.08%.
3. To gauge the impact, stand-in sentences were randomly drawn from the Class 6 felonies under § 18.2-186.3.

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