



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 1208

(Patron – Puckett)

LD#: 09-1660300

Date: 12/16/2008

Topic: Obtain commercial goods without payment

#### 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:**  
Cannot be determined
- **Juvenile Detention Facilities:**  
Cannot be determined

#### Summary of Proposed Legislation:

The proposal adds a section numbered 18.2-188.2 relating to fraudulent failure to pay for goods or services. Under the proposal, a person may be charged with a Class 1 misdemeanor if they knowingly, with the intent to defraud, obtain or attempt to obtain, any commercial goods or services valued at less than \$200 without paying. If the value of the goods or services is \$200 or more, the penalty would increase to a Class 6 felony with a 5-year maximum prison sentence.

Under current statute, there are several crimes that relate to fraudulently obtaining goods or services without paying: credit card fraud (§18.2-197), false statements to obtain property/credit (§18.2-186(B)), false pretenses to obtain money (§18.2-178), false statements to obtain utilities without paying (§18.2-187.1), and welfare fraud (§63.2-522). Each of these crimes is a Class 1 misdemeanor if the value is less than \$200. Credit card fraud and false statements to obtain utilities without paying are both Class 6 felonies if the value is \$200 or more. However, false statements to obtain property/credit, false pretenses to obtain money, and welfare fraud are all unclassified felonies with a 20-year maximum prison sentence.

#### Analysis:

According to fiscal year (FY) 2006 and FY2007 Pre-Sentence Investigation (PSI) data, there were 23 Class 6 felony convictions for credit card fraud (§18.2-197) and false statements to obtain utilities (§18.2-187.1). Of these 23 Class 6 felony cases, nine were sentenced to no active incarceration period, six were given local responsible (jail) time with a median sentence of six months, and eight were sentenced to a state responsible (prison) term with a median sentence of 22.5 months. During the same time period, there were 1,167 unclassified felonies with a 20-year statutory maximum penalty for false statements to obtain property/credit (§18.2-186(B)), false pretenses to obtain money (§18.2-178), and welfare fraud (§63.2-522). Of the 1,167 cases, 45% were given no active incarceration period, 26% were sentenced to local responsible (jail) time with a median sentence of 6 months, and 29% were sentenced to state responsible (prison) time with a median sentence of 20 months.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding an existing felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that would result from the proposal cannot be determined; therefore, the impact of the proposal cannot be estimated.

**Local adult correctional facilities.** The proposal may also increase local-responsible (jail) bed space needs, but the magnitude of the impact cannot be estimated.

**Adult community corrections programs.** Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for state community corrections resources. The *Code of Virginia*, however, allows judges to utilize local community-based probation programs for Class 5 and Class 6 felons as well as misdemeanants. Data are not available to estimate the impact on local or state community corrections resources that may result from the proposal.

**Virginia's sentencing guidelines.** The guidelines would not cover convictions under the new statute of § 18.2-188.2 as the primary (most serious) offense. A conviction under this provision, however, could augment the guidelines recommendation if the most serious offense at sentencing is a covered offense. No adjustment to the sentencing guidelines would be necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice (DJJ), the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined. Existing *Code* specifies that a juvenile is eligible for commitment if he is adjudicated for a felony, has a prior felony adjudication or has accumulated a total of four Class 1 misdemeanor adjudications.

**Juvenile detention facilities.** According to the Department of Juvenile Justice, the impact 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 cannot be determined 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.**

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