



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 210 (Patron – Bulova)

LD #: 10100581

Date: 12/2/2009

Topic: Extortion by threatening to release identifying information

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-59 to make it a Class 5 felony for any person to extort money or other benefit from another by threatening injury to their personal identity or financial security through the release of specific identifying information, including social security number, driver's license number, and bank account numbers.

Currently, under § 18.2-59, it is a Class 5 felony to extort money or any other benefit by 1) threatening injury to the character, person, or property of another person, 2) accusing another of any offense, 3) threatening to report another as being illegally present in the United States, or 4) knowingly destroying, concealing, removing, confiscating, withholding, threatening to withhold, or possessing any actual or purported passport, other immigration document, or government identification of another. The third element of § 18.2-59 was added by the 2006 General Assembly and the 2007 General Assembly added the fourth.

Analysis:

According to the fiscal year (FY) 2007 and FY2008 Pre/Post-Sentence Investigation (PSI) database, 18 offenders were convicted of extortion under § 18.2-59 during this time period. Of these, extortion was the primary, or most serious, offense in 11 of the cases. Three of the 11 offenders were given a local responsible (jail) term, for which the median sentence length was 12 months. The offender who was given a state responsible (prison) term was sentenced to 5 years. The remaining 7 offenders did not receive an active term of incarceration.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands a felony offense, the proposal may have an impact on the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. The magnitude of the impact on prison beds cannot be quantified.

Local adult correctional facilities. Because a felony conviction can result in a sentence to be served in a local or regional jail, the proposal may have an impact on future local-responsible (jail) bed space needs. However, the magnitude of the impact cannot be determined with existing data.

Adult community corrections programs. Because the proposal could result in convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. The offenses listed under § 18.2-59 are not covered by the guidelines as the primary offense but may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the guidelines would be 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. According to the Department of Juvenile Justice (DJJ), 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; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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