



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1777
Amendment in the Nature of a Substitute
(Patron Prior to Substitute – Gilbert)

LD #: 11104871

Date: 1/31/2011

Topic: Manufacture of fictitious birth certificates

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 874 of the 2010 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 § 18.2-204.1 to create a new Class 6 felony related to fictitious birth certificates. Under the proposal, any person who manufactures, sells, or transfers a fictitious birth certificate or the birth certificate of another for the purpose of establishing a false identity for himself or another person would be guilty of a Class 6 felony. In addition, any person who obtains, possesses, sells or transfers a fictitious birth certificate would be guilty of a Class 1 misdemeanor.

Currently, under § 18.2-204.1, it is a Class 1 misdemeanor to obtain, possess, sell, or transfer the birth certificate of another for the purposes of establishing a false identity. False or fictitious birth certificates are not explicitly included. Under the current provision, it is also a Class 1 misdemeanor to obtain, possess, sell, or transfer any document for the purposes of establishing a false status, occupation, membership, license, or identity. Finally, it is a Class 6 felony to obtain, possess, sell or transfer a birth certificate or any other document with the intent that it be used to purchase a firearm.

Analysis:

According to General District Court Automated Information System (CAIS) data for fiscal year (FY) 2009 and FY2010, 331 offenders were convicted of a Class 1 misdemeanor under § 18.2-204.1 for fraudulent use of a birth certificate or driver's license. In these cases, fraudulent use of such a document was the primary (or most serious) offense. The majority (76%) of the offenders were not given an active term of incarceration to serve, while the remaining 24% of offenders received a local-responsible (jail) term, for which the median sentence was one month.

According to FY2009 and FY2010 Sentencing Guidelines data, there were no offenders convicted of a felony under § 18.2-204.1 during the two-year period for fraudulent use of a birth certificate or other document with intent to purchase a firearm (as the primary offense).

Impact of Proposed Legislation:

State adult correctional facilities. By creating a new Class 6 felony, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the magnitude of the impact cannot be determined.

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

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. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia’s sentencing guidelines. Felony offenses currently defined in § 18.2-204.1 are covered by the sentencing guidelines. The guidelines do not cover misdemeanor crimes when the misdemeanor is the primary (or most serious) offense in a case; however, a misdemeanor conviction could augment the guidelines recommendation if it accompanies a felony that is covered by the guidelines. No adjustment to the sentencing 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 874 of the 2010 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.