



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 409

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

**LD#:** 16104849

**Date:** 1/27/2016

**Topic:** Harassment by computer

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

\*\* Provided by the Department of Juvenile Justice

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the 2015 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposed legislation amends § 18.2-152.7:1, relating to harassment by computer. Currently, any person who uses a computer or computer network to harass another is guilty of a Class 1 misdemeanor. Under the proposal, harassment by computer while knowingly and intentionally assuming the identity of another living person would be punishable as a Class 6 felony.

#### Analysis:

According to fiscal year (FY) 2014 and FY2015 data from the General District Court Case Management System (CMS), 80 offenders were convicted of misdemeanor computer harassment under § 18.2-152.7:1. Of these, the majority (75%) did not receive an active term of incarceration to serve after sentencing. The remaining 25% received a local-responsible (jail) term with a median sentence of two months.

Existing data sources do not contain sufficient detail to identify instances in which an offender committed harassment by computer while having assumed the identity of another living person.

#### Impact of Proposed Legislation:

**State adult correctional facilities.** By increasing the penalty for harassment by computer from a Class 1 misdemeanor to a Class 6 felony if the offender assumes the identity of another living person, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data are not sufficiently detailed to estimate the number of additional felony convictions that may result if the proposal is enacted. Therefore, the magnitude of the impact cannot be quantified.

**Local adult correctional facilities.** Similarly, the proposal may increase local-responsible (jail) bed space needs; however, 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.** Convictions resulting from the proposed felony would not be covered by the sentencing guidelines when the offense is the primary (most serious) offense in a case. However, a conviction under this provision may augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the 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.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal's impact 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; therefore, Chapter 665 of the 2015 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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