



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2138 (Patron – Guzman)

LD#: 21102728

Date: 1/11/2021

Topic: Identification privilege cards

Fiscal Impact Summary:

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

- **Juvenile Direct Care:**
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 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal amends numerous sections of the *Code* relating to operator's licenses and other documents issued by the Department of Motor Vehicles (DMV). It authorizes the issuance of new identification privilege cards by the DMV under certain conditions. The bill provides for the phrase "credential issued by the Department under Chapter 3" to consistently refer to all driver's licenses, permits, driver privilege cards, special identification and identification privilege cards issued by the Commonwealth.

Currently, under § 46.2-328.1, licenses, permits, and special identification cards may only be issued to United States citizens, legal permanent resident aliens, and conditional resident aliens of the United States. The proposed § 46.2-345.3 would allow for the issuance of identification privilege cards to applicants who do not meet the citizenship or legal presence requirements for special identification cards or for limited-duration special identification cards. Applicants for the identification privilege cards would have reported income from Virginia sources or would have been claimed as dependents on individual tax returns filed with the Commonwealth in the preceding 12 months. The proposed identification privilege cards would be treated as special identification cards unless prohibited by the *Code of Virginia*. The proposal also limits the release of certain information maintained by the DMV related to the identification privilege cards.

Pursuant to § 46.2-105, any person who knowingly makes a false affidavit or swears falsely to any matter required by Title 46.2 or the Commissioner of the DMV to be sworn to or affirmed is guilty of perjury, which is punishable as a Class 5 felony. Under the proposed § 46.2-345.3, any person who uses a false name or address, knowingly makes a false statement, conceals material facts or commits any fraud in the

application for a special identification card would be guilty of a Class 2 misdemeanor. However, if the fraud, etc., was committed with the purpose of committing any felony offense, it would be a Class 4 felony.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal years 2015 through 2020, 32 offenders were convicted of perjury under § 46.2-105 during this period. The perjury charge was the primary, or most serious, offense in 21 cases. While the majority (57.1%) of these offenders did not receive an active term of incarceration to serve after sentencing, 33.3% were given local-responsible (jail) terms for which the median sentence length was 3 months. Two offenders were sentenced to serve state-responsible (prison) terms of 1.3 years and 5.0 years, respectively.

There were no felony convictions during this period for § 46.2-323.1 (false certification of Virginia residency) or § 46.2-348 (false statement of license application). Both statutes have penalties similar to the proposal. The penalties defined in the proposal also parallel the penalties defined in § 46.2-345.2 pertaining to special identification cards; however, very limited data are available as this statute only took effect on July 1, 2019.

Impact of Proposed Legislation:

State adult correctional facilities. Expanding the number of individuals who may complete an application submitted to the Department of Motor Vehicles may increase the opportunity for individuals to commit a fraud or false statement on this form. As a result, the proposal may increase the number of felony convictions under § 46.2-105 or the proposed § 46.2-345.3. However, existing data do not provide sufficient detail to estimate the number of new felony convictions that could result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.¹

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

Adult community corrections resources. The impact on state community corrections resources and local community-based probation services cannot be estimated.

Virginia's sentencing guidelines. Felony convictions under the proposed § 46.2-245.3 would not be covered by the sentencing guidelines when the crime is the primary, or most serious, offense in a case. However, a conviction under this section could 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 direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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.

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 1289 of the Acts

¹ Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

of Assembly of 2020 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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