



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2336 (Patron – Gilbert)

LD#: 07-4402306

Date: 12/20/2006

Topic: Fraudulent use of birth certificates

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$1,659,892 (65 beds)
- **Local Adult Correctional Facilities:**
-\$27,064 (-3 beds)
- **Adult Community Corrections Programs:**
Cannot be determined

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

Summary of Proposed Legislation:

The proposal amends § 18.2-204.1 to increase the penalty for obtaining, possessing, selling, or transferring a birth certificate or other document for the purpose of establishing a false identity, status, etc., from a Class 1 misdemeanor to a Class 6 felony.

Currently, under § 18.2-204.1, fraudulent use of birth certificates and other documents for the purpose of establishing a false identity, etc., is a Class 1 misdemeanor. However, it is a Class 6 felony if the birth certificate or other document is obtained or transferred with the intent that it be used to purchase a firearm.

Analysis:

According to the calendar year (CY) 2004 and CY2005 Local Inmate Data System (LIDS), 177 offenders held pre- or post-trial in jail were convicted of a Class 1 misdemeanor under § 18.2-204.1 for fraudulent use of a birth certificate or other document to establish a false identity, etc. Most (71%) were given a local responsible (jail) term, for which the median sentence was one month. Another 10%, who had additional charges, were sentenced to a state responsible (prison) term (median sentence of 3.4 years).

Based on calendar year (CY) 2004 and CY2005 Pre-Sentence Investigation (PSI) data, there were no felony convictions during the two-year period for fraudulently using a birth certificate, etc., to obtain a firearm.

Impact of Proposed Legislation:

State adult correctional facilities. Because it increases the penalty for an existing Class 1 misdemeanor to a Class 6 felony, the proposal is expected to increase then need for state-responsible (prison) beds. The impact is estimated to be 65 beds by 2013. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$1,659,892.

Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY08	FY09	FY10	FY11	FY12	FY13
26	47	55	58	61	65

Local adult correctional facilities. Based on the same methodology, the estimated impact on local-responsible (jail) bed space needs is three fewer jail beds statewide, for a savings to the state of \$27,064 and \$25,024 to the localities.

Estimated Six-Year Impact in Local-Responsible (Jail) Beds

FY08	FY09	FY10	FY11	FY12	FY13
-2	-2	-3	-3	-3	-3

Adult community corrections resources. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, it may increase the need for adult community corrections resources. The potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. No adjustment to the sentencing guidelines would be necessary under the proposal.

Juvenile correctional centers. Because the proposal increases the penalty for certain acts from a misdemeanor to a felony, the proposal could result in additional commitments to the Department of Juvenile Justice (DJJ). 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. If a juvenile were committed to DJJ for this felony offense, the minimum confinement assigned under the Department's Length of Stay (LOS) guidelines would be 6 to 12 months. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase the need for Juvenile Correctional Center (JCC) beds.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to have an impact on the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$1,659,892 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

Assumptions underlying the analysis include:**General Assumptions**

1. State and local responsibility is based on § 53.1-20 as analyzed for the Secretary's Committee on Inmate Forecasting in 2006.
2. New cases representing state-responsible sentences were based on forecasts developed for the Secretary's Committee on Inmate Forecasting and approved in July 2006.
3. Cost per prison bed was assumed to be \$25,709 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.*
4. Cost per jail bed was based on the Compensation Board's FY2005 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$28.37 per day or \$10,362 per year. The local cost was calculated by using the daily expenditure cost of \$59.24 per inmate (not including capital accounts or

The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.

debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$26.23 per day or \$9,581 per year. ***Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.***

5. The impact of the proposed legislation, which would be effective on July 1, 2007, is phased in to account for case processing time.

Assumptions relating to sentence lengths

1. The state-responsible bed-space impact was derived by estimating the difference between expected dates of release under current law and under the proposed legislation. Release dates were estimated based on the average rates at which inmates in Department of Corrections' facilities were earning sentence credits as of December 31, 2005. For fraud and larceny crimes, this rate was 11.65%.
2. To gauge the impact of proposed penalty structure, it was assumed that the distribution of sentences for offenders affected by the proposal will be similar to the distribution of sentences for Class 6 felony convictions relating to identity fraud.

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