



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2353 (Patron – Cosgrove)

LD#: 07-5707162

Date: 1/3/2007

Topic: Computer trespass/spyware

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **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

Summary of Proposed Legislation:

The proposal amends § 18.2-152.4 to expand the crime of computer trespass. Under the proposal, the installation of spyware without authorization or the installation of any software designed to disable or take control of another person's computer would be punishable as computer trespass.

In addition, the proposal lowers the threshold for which property damage becomes a felony from \$1,000 to \$500. Also, computer trespass is raised to a Class 6 felony if software is installed in violation of this provision on more than five computers. Moreover, installation of any spyware on the computer of another is a Class 6 felony under the proposal.

Currently, computer trespass is a Class 1 misdemeanor if the crime results in property damage of less than \$1,000 and a Class 6 felony if property damage is valued at \$1,000 or more.

Analysis:

According to the CY2004 and CY2005 Local Inmate Data System (LIDS), there were no offenders held pre- or post-trial in jail who were convicted of either a Class 1 misdemeanor or a Class 6 felony for computer trespass under § 18.2-152.4.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding existing felony provisions and increasing the penalty for certain acts of computer trespass from a misdemeanor to a felony, the proposal may increase the future 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 impact of the proposal on prison bed space needs cannot be determined.

Local adult correctional facilities. The proposal may also 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, it may increase the need for adult community corrections resources. The potential impact on community corrections programs cannot be quantified.

Virginia's sentencing guidelines. Convictions under § 18.2-152.4 are not covered by the sentencing guidelines as the primary (or most serious) offense in a case; however, convictions for these crimes may augment the guidelines recommendation if a covered offense is the most serious at sentencing. 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 centers cannot be quantified.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal's impact on 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 and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

comptrespass01_5707