



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 2960

(Patron – Bell)

LD#: 07-3210232

Date: 12/22/06

Topic: Defrauding hotel established as larceny

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$134,511 (5 beds)
- **Local Adult Correctional Facilities:**  
-\$20,787 (-2 beds)
- **Adult Community Corrections Programs:**  
None

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

#### Summary of Proposed Legislation:

The proposal amends § 18.2-188 to define the defrauding of hotels, motels, campgrounds, boardinghouses, restaurants or amusement parks as larceny. Defrauding an establishment of less than \$200 continues to be a Class 1 misdemeanor under the proposal. By defining this act as larceny, however, the proposal has the effect of increasing the penalty for violations involving \$200 or more from a Class 5 felony (1 to 10 years) to an unclassified felony punishable by 1 to 20 years in prison (the same penalty structure defined by § 18.2-95 for petit and grand larceny).

#### Analysis:

According to the Local Inmate Data System (LIDS), 10 offenders held pre- or post-trial were convicted of the felony violation of § 18.2-188. Only 1 of the 10 was given a state-responsible (prison) term (sentence of 2.4 years). Five of the offenders were given a local-responsible (jail) term, for which the median sentence was seven months. The remaining four were sentence to probation without an active term of incarceration.

LIDS data from the same period indicate that 42% of offenders convicted of grand larceny (not from person) received a state-responsible (prison) term, where the median sentence was nearly three years.

These data do not contain offenders who were never booked in to a local or regional jail.

#### Impact of Proposed Legislation:

**State adult correctional facilities.** Because it increases the maximum penalty for defrauding a hotel, etc., the proposal could increase the future state-responsible (prison) bed space needs of the Commonwealth. Felony offenders sentenced under § 18.2-95 are currently serving an average of six months longer than felony offenders sentenced under § 18.2-188. If judges begin to sentence felony offenders convicted under § 18.2-188 as they currently sentence offenders for felony fraud offenses that

are defined as larcenies, the impact on state-responsible (prison) beds is estimated to be five beds by FY2013. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$134,511.

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

FY08	FY09	FY10	FY11	FY12	FY13
1	3	4	5	5	5

**Local adult correctional facilities.** Although the proposal retains a Class 1 penalty structure for any misdemeanor violation, the increased felony penalty could result in a shift for some felony offenders from a jail sentence to a prison term. This would result in a decrease in the need for local-responsible (jail) beds. The impact is estimated to be two fewer jail beds statewide by FY2013, for a savings to the state of \$20,787 and \$19,220 to the localities.

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

FY08	FY09	FY10	FY11	FY12	FY13
0	-1	-2	-2	-2	-2

**Adult community corrections programs.** Because judges will likely not add further community supervision requirements for these convicted felons, the proposal is not expected to increase the need for adult community corrections resources.

**Virginia's sentencing guidelines.** No adjustment to the 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.** The Department of Juvenile Justice reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$134,511 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.**

#### **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 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. For felony offenders affected by the proposal, it was assumed that the distribution of sentences will be similar to the current distribution of sentences for felony fraud convictions that are punished as larcenies.

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