



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 385

(Patron – Ware, R.L.)

ID#: 08-8034780

Date: 12/7/2007

Topic: Computer invasion of privacy

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **State Community Corrections Programs:**
Cannot be determined

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

Summary of Proposed Legislation:

The proposal amends § 18.2-152.5 to expand the crime of computer invasion of privacy by adding a person's name, date of birth, or any other personal information to the list of items constituting "financial or identifying information". Currently, § 18.2-152.5 defines identifying information as those items listed in clauses (iii) through (xiii) of subsection C of § 18.2-186.3; however, clause (i) (name) and clause (ii) (date of birth) are not currently included.

In the 2001 legislative session, computer invasion of privacy was elevated from a Class 3 to a Class 1 misdemeanor. In addition, the 2005 General Assembly created three new felony computer invasion of privacy crimes (1) making a second or subsequent offense a Class 6 felony, (2) making it a Class 6 felony to sell or distribute unlawfully obtained identifying information, and (3) making it a Class 6 felony to use such information in the commission of another crime. These new crimes became effective July 1, 2005. The 2005 amendments were part of the Joint Commission on Technology and Science's redefinition, modernization and streamlining of computer laws.

Analysis:

Analysis of fiscal year (FY) 2006 and FY2007 Pre/Post-Sentencing Investigation (PSI) data revealed no convictions for felony violations of § 18.2-152.5. Also, according to the Local Inmate Data System (LIDS), which contains information on persons held in local and regional jails in Virginia, there were no convictions for misdemeanor violations of § 18.2-152.5 during calendar year (CY) 2005 and CY2006.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the definition of computer invasion of privacy to include name, date of birth, or any other personal information, the proposal could result in an increase in the number of offenders convicted of a Class 6 felony under this statute. The number of additional felony convictions that may result from the proposal in the future cannot be estimated; therefore, the magnitude of the impact cannot be determined.

Local adult correctional facilities. Similarly, the impact on the local-responsible (jail) bed space needs cannot be quantified.

Adult community corrections resources. 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 resources cannot be quantified.

Virginia's sentencing guidelines. Convictions under § 18.2-152.5 are not covered by the sentencing guidelines as the primary (or most serious) offense. A conviction under this section, however, could augment the guidelines recommendation if the most serious offense at sentencing is a covered offense. No adjustment to the sentencing 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 (DJJ) reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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