



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1110 (Patron – Ebbin)

LD#: 10103081

Date: 12/23/2009

Topic: Unauthorized account access

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal adds § 18.2-152.4:1 to expand the crime of computer trespass. Under the proposal, any person who accesses a password-protected database, file, or online account and creates, deletes, or alters any information is guilty of a Class 1 misdemeanor. If the violation results in damage to the property of another valued at \$1, 000 or more the offense is elevated to Class 6 felony.

Currently, computer trespass under § 18.2-152.4 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 Circuit Court Automated Information System (CAIS) for fiscal years 2008 and 2009, there was one felony conviction for computer trespass under the existing § 18.2-152.4. The offender received three years with all time suspended.

According to the Local Inmate Data System (LIDS) for calendar years 2007 and 2008, there were nine offenders held pre- or post-trial in jail who were convicted of a Class 1 misdemeanor for computer trespass under § 18.2-152.4. Two received probation without an active term of incarceration and the other seven received a local-responsible (jail) term with a median sentence of one month.

Impact of Proposed Legislation:

State adult correctional facilities. By defining a new felony offense, 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. Available data, however, reveal only one felony computer trespass conviction under related provisions during a recent two-year

period. While the impact of the proposal on prison bed space cannot be quantified, it is likely to be small.

Local adult correctional facilities. Because it defines a new felony and a new misdemeanor offense, the proposal may also increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

Adult community corrections programs. Since 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 magnitude of the impact on community corrections programs cannot be determined.

Virginia's sentencing guidelines. Convictions under § 18.2-152.4:1 would not be 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 magnitude of the proposal's impact on juvenile correctional center (JCC) bed space needs cannot be determined.

Juvenile detention facilities. According to the Department of Juvenile Justice (DJJ), the magnitude of 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 781 of the 2009 Acts of Assembly 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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