



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 1325

(Patron – Herring)

LD #: 11102397

Date: 12/29/2010

Topic: Financial exploitation of elderly or vulnerable adults

#### 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 874 of the 2010 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposed legislation adds §§ 18.2-178.1 and 19.2-386.32 to the *Code of Virginia* regarding financial exploitation of elderly persons or vulnerable adults. The proposed § 18.2-178.1 provides that it is a Class 5 felony to knowingly, by deception or misrepresentation, use, obtain, or take control of an elderly or vulnerable adult's property or financial resources. If the violation is by a caregiver or a person in a position of trust, it is a Class 3 felony. The proposed § 18.2-178.1 also defines terms such as "caregiver," "elderly person" (any person 60 years of age or older), "financial resources", "property," and "vulnerable adult". The proposal overlaps with many existing felony property crimes including grand larceny (§ 18.2-95), obtaining money or property by false pretenses (§ 18.2-178), forging and uttering (§ 18.2-172), and identity theft (§ 18.2-186.3).

The proposed § 19.2-386.32 provides for the lawful seizure by a law-enforcement officer and forfeiture to the Commonwealth of property used in connection with the financial exploitation of elderly persons or vulnerable adults.

#### Analysis:

According to CY2008 Incident-Based Reporting (IBR) crime data provided by the Virginia Department of State Police and compiled by the Department of Criminal Justice Services, there were 132,783 offenses reported to police involving larceny, motor vehicle theft, stolen property offenses, false pretenses, counterfeiting/forgery, and impersonation (identity theft). Of the total, 71,683 (54%) resulted in a loss of \$200 or more based on the value of the single costliest item that was lost in the incident. Of offenses resulting in a loss of \$200 or more, 11% involved victims aged 60 or older.

Felony conviction data for property crimes rarely contain information regarding the age of the victim. The table below contains sentencing information for these crimes irrespective of victim age.

**Historical Sentencing Information for Specified Crimes (All Cases/Victims)**

	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State Responsible Sentence
Grand larceny (§ 18.2-95) and other felonies punished as grand larceny	7,986	40%	36%	24%	2.0 yrs.
False pretenses (§ 18.2-178)	1,004	38%	29%	33%	1.8 yrs.
Forging and uttering (§ 18.2-172)	1,232	39%	33%	28%	1.6 yrs.
Identity theft - financial loss more than \$200 (§ 18.2-186.3)	111	47%	32%	21%	1.3 yrs.

Note: Analysis based on cases in which the crime was the primary (or most serious) offense at time of sentencing.

Data Source: FY2009 and FY2010 Sentencing Guidelines data

**Impact of Proposed Legislation:**

**State adult correctional facilities.** The proposed legislation creates new felony offenses associated with certain property crimes when the victim is an elderly or vulnerable adult. The proposal also provides for enhanced penalties when the offender is a caregiver or a person in a position of trust. The proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, the databases available to the Commission do not contain sufficient detail to estimate the number of convictions that may be affected by the proposal. Therefore, the magnitude of the impact cannot be quantified.

**Local adult correctional facilities.** The proposal could also affect the local-responsible (jail) bed space needs of the Commonwealth. However, the magnitude of the impact cannot be determined.

**Adult community corrections programs.** The net impact of the proposal on community corrections resources cannot be determined.

**Virginia's sentencing guidelines.** Convictions under the proposed § 18.2-178.1 would not be covered by the sentencing guidelines as the primary, or most serious, offense. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice, the impact of the proposal on juvenile correctional center bed space needs cannot be determined.

**Juvenile detention facilities.** According to the Department of Juvenile Justice, the impact of the proposal 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 874 of the 2010 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.**