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SENATE BILL NO. 431

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 27, 2012)

(Patron Prior to Substitute—Senator Stuart)

A BILL to amend and reenact § 18.2-178 of the Code of Virginia, relating to financial exploitation of incapacitated adults; penalties.

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-178 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-178. Obtaining money or signature, etc., by false pretense or through use of mental incapacity.

A. If any person obtain, by any false pretense or token, from any person, with intent to defraud, money, a gift certificate or other property that may be the subject of larceny, he shall be deemed guilty of larceny thereof; or if he obtain, by any false pretense or token, with such intent, the signature of any person to a writing, the false making whereof would be forgery, he shall be guilty of a Class 4 felony.

B. Any person who, with intent to defraud, obtains from a complainant through the use of the complainant's mental or physical incapacity, money, a gift certificate or other property that may be the subject of larceny, shall be deemed guilty of larceny thereof; or if he obtains, through the use of the complainant's mental or physical incapacity, with such intent, the complainant's signature to a writing, the false making whereof would be forgery, is guilty of a Class 4 felony.

C. Venue for the trial of any person charged with an offense under this section may be in the county or city in which (i) any act was performed in furtherance of the offense, or (ii) the person charged with the offense resided at the time of the offense.

D. "Mental or physical incapacity" means mental illness, intellectual disability, dementia, organic brain dysfunction, developmental disability, physical illness, injury, or disability that would impair the person's mental or physical ability to manage his money, assets, property, or financial resources.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. 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 890 of the Acts of Assembly of 2011 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.