



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 619 (Patron – Mason)

LD#: 14101332

Date: 12/17/2013

Topic: Computer fraud

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**
Cannot be determined, likely to be small

- **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 806 of the 2013 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

Currently, under § 18.2-152.3, it is a Class 5 felony (punishable by one to ten years imprisonment) to use a computer or computer network without authority to obtain property or services by false pretenses, commit larceny, or convert the property of another if the value of the property is \$200 or more. Under the proposal, the penalty for this offense would be increased to a Class 4 felony (punishable by two to ten years imprisonment) if the offense involved a victim age 65 or older.

Analysis:

According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2012 and FY2013, ten offenders were convicted of a felony under § 18.2-152.3 for computer fraud during this time period. This offense was the primary, or most serious, offense in five of the cases. Of these, four of the offenders did not receive an active term of incarceration to serve after sentencing. The remaining offender received a state-responsible (prison) term of one year.

Existing databases do not contain sufficient detail to identify the number of convictions under § 18.2-152.3 in which the victim was age 65 or older.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the penalty for felony computer fraud from a Class 5 felony to a Class 4 felony for cases involving a victim age 65 or older, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Specifically, increasing the statutory minimum penalty for offenders who could already be prosecuted for a felony under § 18.2-152.3

from one to two years may impact bed space needs through jury sentencing because juries, by law, must impose at least the statutory minimum sentence specified in the *Code* and are not permitted to reduce or suspend any portion of the sentence. A judge may suspend a portion of the jury-imposed sentence, but judges rarely do so. The databases available to the Commission do not contain sufficient detail to estimate the number of instances in which the enhanced penalty would apply. While the magnitude of the impact cannot be quantified, any impact is likely to be small.

Local adult correctional facilities. The proposal could also affect the local-responsible (jail) bed space needs of the Commonwealth. The magnitude of the impact cannot be determined, but any impact is likely to be small.

Adult community corrections resources. While the potential impact on community corrections resources cannot be quantified, any impact is likely to be small.

Virginia's sentencing guidelines. Felony convictions under § 18.2-152.3 are not covered by the sentencing guidelines when this offense is 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. The Department of Juvenile Justice reports that, while this proposal could cause an increase in commitments, the impact of this proposal on bed space needs for juvenile correctional centers cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that this proposal's impact on detention center bed space needs 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 806 of the 2013 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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