



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1528 (Patron – Berg)

LD#: 15101692

Date: 12/31/2014

Topic: Use of personal information by law-enforcement

#### 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\*\*

\*\*Provided by the Department of Juvenile Justice

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the 2014 Acts of Assembly, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposed legislation amends numerous sections of the *Code of Virginia*, relating to the use of technology to collect and maintain personal information in a passive manner. Currently, under the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), there is no explicit restriction on passively collecting personal information. Under the proposal, a warrant must be issued before an agency may use technology to passively collect and maintain personal data. Data collected using a license plate reader, under the proposal, could only be retained for 24 hours.

The proposed amendments to § 2.2-3801 expand the definition of “personal information” to include vehicle license plate numbers and the presence of individuals at specific locations. The definition of “criminal intelligence information” established by § 52-48 would be modified to exclude personal information collected in a passive manner without a warrant that is of an unknown relevance to criminal activity or terrorism. The proposed changes to § 2.2-3802 specify that the current exemption from the requirements of the Government Data Collection and Dissemination Practices Act for police departments would not apply to certain personal information that was collected in a passive manner without a warrant.

Currently, under § 2.2-3809, the penalty for any public servant or agency to engage in acts or practices that violate the provisions of the Government Data Collection and Dissemination Practices Act is a civil penalty ranging from \$250 to \$2,500. Under the proposal, it would be a Class 6 felony for any person to disclose information collected by a law-enforcement agency from a license plate reader, except as provided in § 2.2-3800.

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**Analysis:**

Existing data sources were not available to determine if there have been any civil penalties imposed for violations of § 2.2-3809. According to General District Court and Circuit Court Case Management System (CMS) data for fiscal year (FY) 2010 to FY2014, there were no convictions under § 52-48 relating to the dissemination of information maintained or collected by the Virginia Fusion Intelligence Center.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it establishes a new Class 6 felony for disclosing information collected by law-enforcement from a license plate reader, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of new felony convictions, or potentially longer sentences, that could result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** The proposal may also increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

**Adult community corrections programs.** Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may affect adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

**Virginia's sentencing guidelines.** Felony convictions under the proposed modifications to § 2.2-3809 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 (DJJ), the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

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**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 2 of the 2014 Acts of Assembly, Special Session I, 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.**