



## Fiscal Impact Statement for Proposed Legislation

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### *Virginia Criminal Sentencing Commission*

#### House Bill No. 1149 (Patron – Wilt)

LD#: 18102372

Date: 01/04/2018

Topic: Credential cards without photograph and penalties

#### Fiscal Impact Summary:

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

- **Juvenile Direct Care:**  
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 836 of the 2017 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

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#### Summary of Proposed Legislation:

The proposed legislation adds § 46.2-345.2 to the *Code of Virginia*, relating to the issuance of credential cards without photograph.

Currently, under § 46.2-345, the Department of Motor Vehicles (DMV) shall issue a special identification card to any person who is a resident of the Commonwealth if all requirements for an applicant under this section are met. According to § 46.2-345, a special identification card may be similar to a driver's license and includes a photograph of its holder, but it shall be readily distinguishable from a driver's license. Moreover, it must clearly state that it does not authorize the holder to drive a motor vehicle.

Under the proposed § 46.2-345.2, upon application of certain individuals who are also eligible for a special identification card, DMV may issue a credential card without a photograph if specified criteria are met. In particular, such applicant would be required to present either an approved and signed IRS Form 4029 (the exemption from social security and Medicare taxes) or an affidavit affirming that the applicant has a religious belief against the taking of a portrait photograph. The proposal explicitly states that a credential card shall not include a photograph of its holder. Any person who uses a false or fictitious name or address, knowingly makes a false statement, conceals a material fact, or commits a fraud in any application for a credential card would be guilty of Class 2 misdemeanor. However, if the credential card is obtained for the purpose of committing any felony, it would be a Class 4 felony. These penalties parallel those defined in § 46.2-345 relating to special identification cards issued by DMV.

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**Analysis:**

According to the Circuit Court Case Management System (CMS) for fiscal years 2012 through 2017, there was one felony conviction under § 46.2-345, relating to providing false information on the application for a special identification card for the purpose of purchasing a firearm or committing any felony. The offender convicted under § 46.2-345 received a six-month sentence.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Expanding the number of individuals who may complete an application submitted to the Department of Motor Vehicles may increase the opportunity for individuals to submit false or fictitious information or to commit a fraud related to this form. As a result, the proposal may increase the number of felony convictions. However, existing data do not provide sufficient detail to estimate the number of new felony convictions 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 impact the local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

**Adult community corrections resources.** The impact on state community corrections resources and local community-based probation services cannot be estimated.

**Virginia's sentencing guidelines.** Felony convictions under the proposed § 46.2-345.2 would not be covered by the sentencing guidelines when this crime is the primary, or most serious, offense in a case. However, a conviction for this offense could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

**Juvenile direct care.** According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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 836 of the 2017 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.**