



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 2650 (Patron – Leftwich)

LD#: 25104767

Date: 1/14/2025

Topic: Gift certificate theft

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: \$50,000 * • Local Adult Correctional Facilities: Cannot be determined • Adult Community Corrections Programs: Cannot be determined 	<ul style="list-style-type: none"> • Juvenile Direct Care: Cannot be determined ** • Juvenile Detention Facilities: Cannot be determined ** <p style="text-align: center;">** Provided by the Department of Juvenile Justice</p>
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* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal modifies § 18.2-192, relating to credit card and credit card number theft, to include theft of gift certificates. Currently, under § 18.2-192, credit card and credit card number theft is grand larceny and is punishable as provided in § 18.2-95 (penalty range of 1 to 20 years).¹ Under the proposal, theft of gift certificates would also be grand larceny and punishable in the same manner. The proposal does not set a specific dollar value limit, so any gift certificate theft would be grand larceny, regardless of the dollar value.

A gift certificate is defined as certificate, electronic card, or other medium issued by a merchant or agent of a merchant, that can be redeemed for goods, food, services, credit, or money.

Analysis:

The number of individuals who would be convicted under § 18.2-192 for gift certificate theft is unknown. Defendants convicted of the proposed felony may be sentenced similarly to offenders currently convicted for credit card theft or for grand larceny.

According to fiscal year (FY) 2023 and FY2024 Sentencing Guidelines data, 471 offenders were convicted of felony credit card theft as the primary, or most serious, offense at sentencing. Of these offenders, 33.8% were given probation without an active term of incarceration to serve. Another 32.3% were given a

¹ Under current law, the felony offenses defined in § 18.2-192 are eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby individuals must serve a minimum of 67% of the sentence ordered by the court.

local-responsible (jail) term and the median sentence in these cases was 7.0 months. The remaining 34.0% received a state-responsible (prison) term with a median sentence of 1.5 years.

Sentencing Guidelines data for the same two-year period indicate that 1,274 offenders were convicted of grand larceny involving \$1,000 or more (not from a person) as the most serious offense. Of these offenders, 35.6% were given probation without an active term of incarceration and 37.7% were given a local jail term for which the median sentence was 4.0 months. For the 26.7% who received a state prison term, the median sentence was 1.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal expands the applicability of an existing statute by adding a new offense element. Available data are insufficient, however, to identify the number of additional felony convictions or to estimate the number of new state-responsible (prison) sentences that may result from enactment of the proposal. Thus, the magnitude of the impact on prison bed space needs cannot be determined.

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

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

Virginia’s Sentencing Guidelines. The new felony act defined in the proposal initially would not be covered by the Sentencing Guidelines when it is the primary, or most serious, offense in a case. A conviction under this provision could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. If the proposal is enacted, the Sentencing Commission in the future would conduct detailed analyses of sentencing patterns under the new provision to determine the feasibility of adding the felony to the Guidelines system. If enacted, this new felony would not be defined as violent in § 17.1-805(C) for Guidelines purposes. 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.

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 Acts of Assembly of 2024, 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.