



# Virginia State Crime Commission

**SJR 363: Manufacture and Use of False  
Identification Cards**

June 25, 2009

# Overview



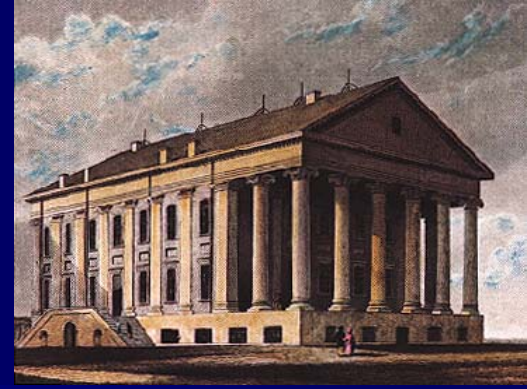
- Study Authorization
- Virginia Code Provisions
- Conviction Data
- Comments and Observations

# Study Authorization



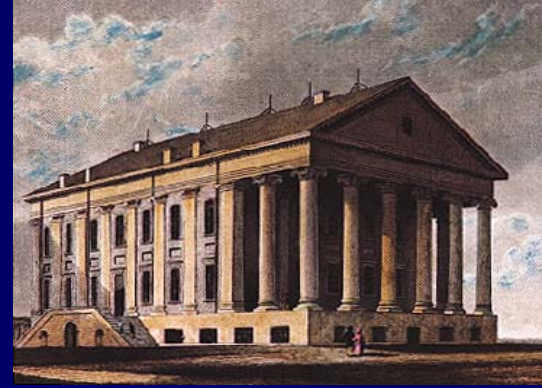
- Senate Joint Resolution 363 was introduced by Senator Martin during the Regular Session of the 2009 General Assembly.
- The resolution directed the Crime Commission to study:
  - Methods of preventing the manufacture of such documents;
  - Effective means of prosecuting the use of false documents; and,
  - The prevalence of false identification documents.

# Virginia Code



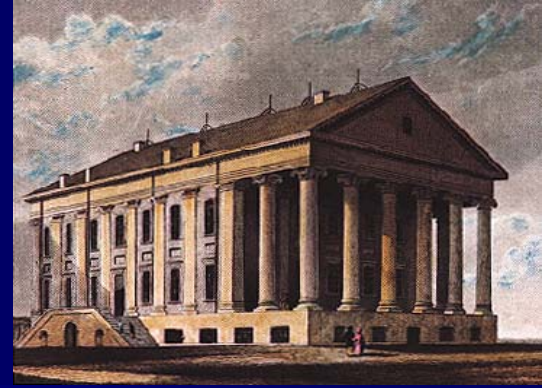
- There are ten statutes in the Code of Virginia that deal with false identification documents or driver's licenses.
- These statutes contain over 30 offenses
  - There is some overlap between the statutes.
  - Some of the offenses cover more than just identification cards, e.g., fraudulently obtaining any document from DMV, which would include certificates of title and vehicle registrations.

# Virginia Code



- There are two statutes that explicitly criminalize the use of false identification cards to purchase alcohol:
  - Va. Code § 4.1-305(B) is a Class 1 misdemeanor, with either a mandatory minimum \$500 fine or 50 hours of community service, and suspension of driver's license for 6 months to 1 year
  - Va. Code § 46.2-347 is a Class 3 misdemeanor, with a suspension of driver's license for 30 days to 1 year

# Virginia Code



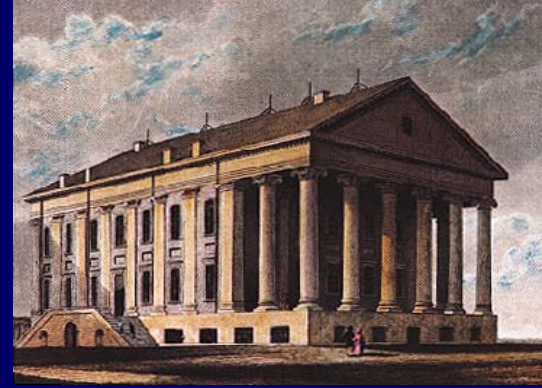
- Two additional statutes explicitly mention an intent to falsify one's age in connection with false identification documents: Va. Code §§ 18.2-204.2 and 46.2-105.2.
  - Va. Code § 18.2-204.2 criminalizes the possession of a fake driver's license or other identification card.
  - This statute states that a violation of this statute shall not prohibit or prevent a prosecution for forgery or uttering under Va. Code § 18.2-172, UNLESS the forgery or uttering of the identification card is for proof of age.
  - Possession of such a card or document is a Class 2 misdemeanor.
  - Manufacturing, selling, or advertising such cards or documents is a Class 1 misdemeanor.

# Virginia Code



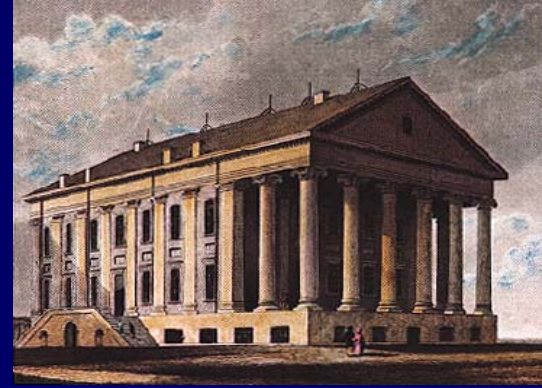
- Va. Code § 46.2-105.2 criminalizes obtaining, possessing, or using any driver's license, identification card, registration, title, or other document if not entitled thereto.
  - A violation is a Class 2 misdemeanor if the possession was for the purpose of engaging in any age-limited activity.
  - Otherwise, a violation is a Class 6 felony.

# Virginia Code



- There are an additional four statutes in Title 46.2 of the Code of Virginia that cover false driver's licenses and identification cards.

# Virginia Code



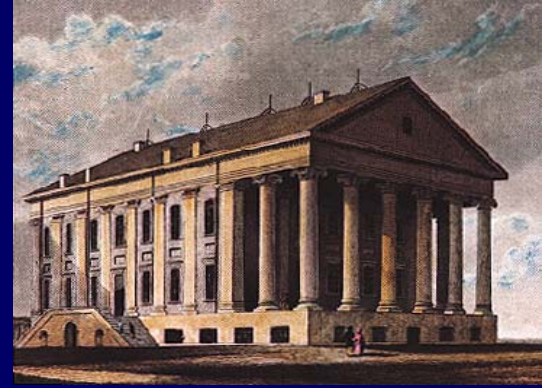
1. Va. Code § 46.2-105.1(A) criminalizes procuring, through fraud, theft, or other illegal means, a certificate, license, or permit from DMV.
  - A violation is a Class 2 misdemeanor.

# Virginia Code



2. Va. Code § 46.2-345(I) criminalizes using a false name or giving false information in any application for an identification card.
- A violation is a Class 2 misdemeanor.
  - If the intent is to purchase a firearm or commit a felony, then a violation is a Class 4 felony.

# Virginia Code



3. Va. Code § 46.2-346(1) criminalizes displaying or possessing any driver's license which is fictitious or altered (or was cancelled, revoked, or suspended).
  - Va. Code § 46.2-346(4) criminalizes reproducing a driver's license with the intent to commit an illegal act.
  - A violation of either of these subsections is a Class 2 misdemeanor.

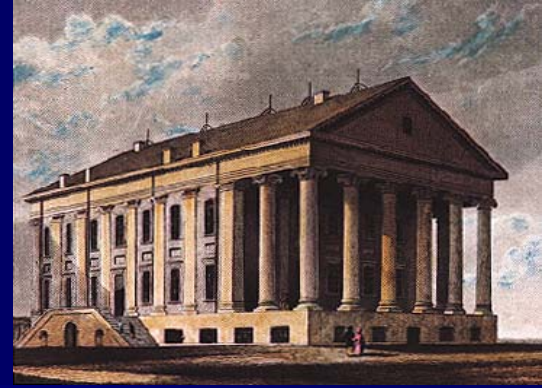
# Virginia Code



4. Va. Code § 46.2-348 criminalizes using a false or fictitious name or other false information in application for a driver's license.

- A violation is a Class 2 misdemeanor.
- If the license is used, or the fraud is committed, with the intent to purchase a firearm, or for proof of residency, then a violation is a Class 4 felony.

# Virginia Code



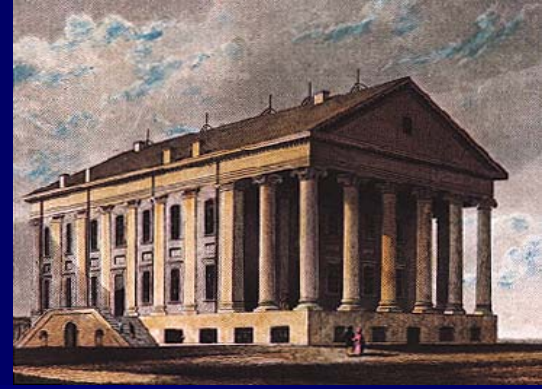
- Va. Code § 18.2-204.1 makes it a crime to obtain, possess, sell or transfer the birth certificate of another, or any document, for the purposes of establishing a false identity.
  - A violation is a Class 1 misdemeanor.
  - If the offense is committed with the intent to obtain a firearm, then a violation is a Class 6 felony.

# Virginia Code



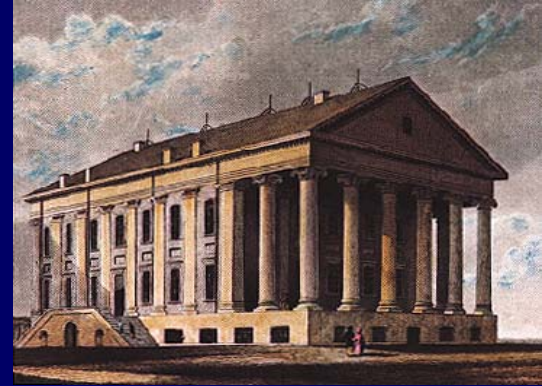
- The identity theft statute, Va. Code § 18.2-186.3, contains provisions that relate to obtaining identification documents in another person's name, with the intent to commit a fraud or to sell the identity information, or to avoid arrest or prosecution.
- A violation is a Class 1 misdemeanor, unless the offense leads to a financial loss greater than \$200, which makes it a Class 6 felony.
- A second offense is a Class 6 felony.
- An offense that causes another person to be arrested is a Class 6 felony.
- If more than 5 persons' identities are stolen in the same transaction, it is a Class 6 felony; if more than 50 persons' identities, it is a Class 5 felony.

# Conviction Data



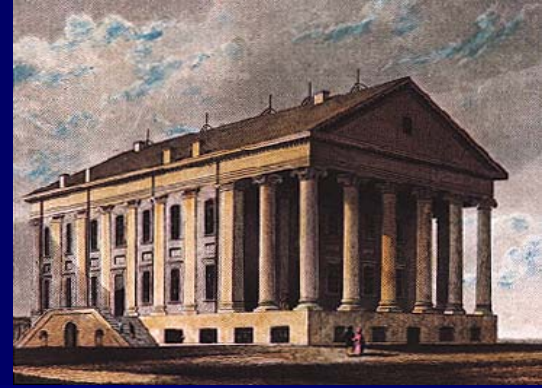
- A data request was made to the Virginia Compensation Board for any available LIDS data on offenders who were jailed for any of the misdemeanor false identification offenses.
- In FY07, there were a total of 1,795 individuals who were committed at least once to a jail for 3,098 offenses.
  - Of these, 650 individuals were found guilty of 1,014 offenses.
- In FY08, there were a total of 1,626 individuals who were committed at least once to a jail for 3,024 offenses.
  - Of these, 534 individuals were found guilty of 858 offenses.
- Note: these figures include incarceration for misdemeanor identity theft, an offense that does not necessarily involve a false identification document.
  - Only 1,691 of the offenses in 2007 definitely involve a false ID.
  - Only 1,681 of the offenses in 2008 definitely involve a false ID.

# FY08 Conviction Data



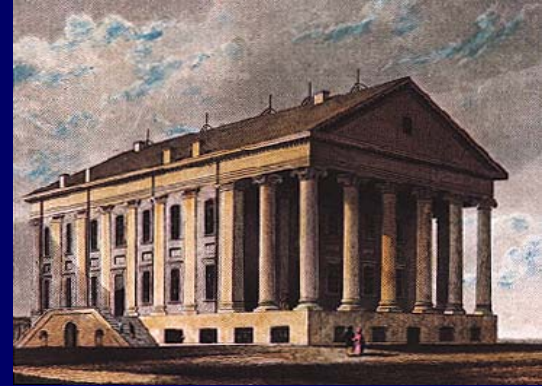
Rank	VA Code	# of Offenses	Description of Offense
1	18.2-186.3-(A)	1330	Obtain identifying info. with intent to defraud
2	18.2-204.2(C)	871	Possess fictitious driver's license
3	18.2-204.1	642	Fraudulent use of birth certificate, driver's license (misdemeanor)
4	18.2-204.2(B)	83	Manufacture/sale of fictitious driver's license
5	4.1-305(B)	24	False ID used to purchase, attempt to purchase or consume alcohol under 21 yrs
6	46.2-345(H)	19	False info. on application for ID card/driver's license
7	46.2-105.1(A)	16	Unlawful procurement of certificate, license or permit
8	18.2-186.3(B)	13	Obtain identifying info. with intent to sell or distribute (misdemeanor)
9	18.2-204.1	13	Fraudulent use of birth certificate or license to obtain firearm
10	46.2-345(H)	3	False info. on application for a gun or felony offense

# Conviction Data



- A data request was made to the Sentencing Commission for information on the number of people convicted of any of the felony false identification offenses.
- As with the LIDS data, crimes involving identity theft might not involve the use of a false identification card.
- In FY07, there were 200 convictions; 35 likely involved false identification documents.
- In FY08, there were 240 convictions; 80 likely involved false identification documents.

# FY08 Conviction Data



VA Code	# of Offenses	Description of Offense
18.2-186.3(D)	12	Use of identifying information to defraud resulted in detention of victim
18.2-186.3(D)	3	Use of identifying information to defraud – financial loss greater than \$200 (Attempt)
18.2-186.3(D)	1	Use of identifying information to defraud – financial loss greater than \$200 (Conspiracy)
18.2-186.3(D)	137	Use of identifying information to defraud – financial loss greater than \$200
46.2-186.3(D)	67	Use of identifying information to defraud resulted in detention of victim – second or subsequent
46.2-105.2	2	Obtain or possess license, ID, registration, etc. when not entitled (Attempt)
46.2-105.2	14	Obtain or possess license, ID, registration, etc. when not entitled
46.2-105.2	1	Unlawfully aid in obtaining any document issued by DMV
46.2-105.2	2	Possess or use any DMV document obtained in violation of the proscribed conditions
46.2-348(I)	1	Fictitious license used with the intent to purchase a firearm

# Comments and Observations



- Staff solicited general comments and observations from local law enforcement, sheriffs, and Commonwealth's Attorneys.
- The comments were split about evenly; half indicated that fake identification documents were not a problem in their jurisdiction (or not a problem they encountered), while half indicated that they did encounter many false documents.
- The Bureau of Law Enforcement for the Virginia Dept. of Alcoholic Beverage Control has commented that fake identification documents are still a significant problem, and the manufacture and use of fake id's is not truly on the decline.

# Discussion