

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: SB249S1

House of Origin ☐ Introduced ☒ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Surovell

3. Committee: Agriculture, Conservation and Natural Resources

4. Title: Sexual abuse of animals; penalty.

5. Summary: The proposed legislation provides that any person who knowingly (i) engages in sexual contact with an animal; (ii) causes another person by force, threat, or intimidation to engage in sexual contact with an animal; (iii) advertises, solicits, offers, sells, purchases, or possesses an animal with the intent that the animal be subject to sexual contact; (iv) permits sexual contact with an animal to be conducted on any premises under his ownership or control; (v) produces, distributes, publishes, sells, transmits, finances, possesses with the intent to distribute, publish, sell, or transmit, or makes any attempt to produce, distribute, publish, sell, transmit, or finance an obscene item depicting a person engaged in sexual contact with an animal is guilty of a Class 6 felony. The bill also provides that any person convicted of sexual abuse of an animal may be ordered to attend an appropriate treatment program or obtain psychiatric or psychological counseling.

While the introduced version of the bill would have required all persons convicted of sexual abuse of animals to be prohibited by the court from possessing, owning, or exercising control over any animal for a five-year time period, the substitute bill replaces the five-year time period with an indefinite time period.

6. Budget Amendment Necessary: Yes, Item 404.

7. Fiscal Impact Estimates: Preliminary (see Item 8 below).

8. Fiscal Implications: Under current law § 18.2-361(A), it is a Class 6 felony to carnally know, in any manner, any brute animal or voluntarily submit to such carnal knowledge. In addition, under current law § 18.2-376.1 and § 18.2-374, possession or sale of obscene materials is a Class 1 misdemeanor. The proposed legislation creates a new statute §18.2-361.01 for sexual abuse of animals as a Class 6 felony, which includes sexual contact between a person and an animal; and, the production, distribution, or sale, etc. of obscene items involving such sexual contact.

The Virginia Criminal Sentencing Commission (VCSC) reports that data are insufficient to identify the number of Class 6 felony convictions that would result from the proposed legislation. According to the Sentencing Guidelines database for FY2016 through FY2021, 15 offenders were convicted of a Class 6 felony under § 18.2-361(A) for carnal knowledge of

a brute animal. This offense was the primary, or most serious, offense in 14 of the 15 cases. One third (33.3 percent) of these offenders did not receive an active term of incarceration to serve after sentencing. Three of these offenders (20.0 percent) received a local-responsible (jail) term with a median sentence of three months. The remaining seven offenders (46.7 percent) were given a state-responsible (prison) term with a median sentence of 2.0 years.

The evaluation of Sentencing Guidelines data yielded secondary offenses aligned with the possession or sale of obscene materials under § 18.2-376.1 and § 18.2-374, each of which are currently Class 1 misdemeanors. The proposal would encompass the commission of these crimes in relation to the possession, sale, etc. of obscene materials related to the carnal knowledge of an animal and make said offenses punishable as a Class 6 felony. According to the Circuit Court Case Management System (CMS) for FY2020 and FY2021, there was only one sentencing event in which one of these two statutes were violated and the offender received a one-year sentence of supervised probation. Under the proposal, if found guilty of the same offense, this offender will be guilty of a Class 6 felony punishable by one to five years in state prison.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Corrections; Department of Juvenile Justice; Local and regional jails; Courts; Commonwealth Attorneys; Public Defenders.

- 10. Technical Amendment Necessary:** No

- 11. Other Comments:** This bill is similar to HB672.