



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 604

As Engrossed

(Patrons Prior to Engrossment – Stanley and Boysko; Delegate: Kory)

LD#: 22104107

Date: 02/17/2022

Topic: Cruelty to animals

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 552 of the Acts of Assembly of 2021, 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 amends §§ 3.2-6500 and 3.2-6570 of the *Code of Virginia* to expand the definition of a companion animal. The proposal clarifies that dogs or cats in the possession of a person who, or an entity that, breeds dogs or cats for sale or transfer to a medical research facility are considered companion animals for the enforcement of certain animal cruelty laws, specifically Article 2 (§ 3.2-6503 et seq.) and Article 9 (§ 3.2-6570 et seq.) of Chapter 65 of Title 3.2. The proposal affects numerous misdemeanor offenses and several felonies under these sections. Under current law, a second or subsequent act of cruelty to an animal, when at least one act results in the death of the animal, is punishable as a Class 6 felony. A second or subsequent act of killing a dog or cat for its hide, fur, or pelt is also a Class 6 felony. Finally, the act of torturing or mutilating a companion animal is a Class 6 felony when the act results in serious bodily injury to or the death of the animal.

The bill contains enactment clauses to specify that: 1) the provisions shall not become effective unless re-enacted by the 2023 General Assembly and 2) the provisions shall not become effective unless an appropriation effectuating the purposes of the legislation is included the appropriation act passed by the 2022 General Assembly.

Analysis:

According to the fiscal year (FY) 2020 and FY2021 Circuit Court Case Management System (CMS) database, one offender was convicted of a felony for cruelty to animals, second or subsequent violation,

under § 3.2-6570; this offender did not receive an active term of incarceration to serve after sentencing. In addition, 23 offenders were convicted of a felony for the torture or mutilation of a companion animal causing death or serious injury; of these, 30.4% received state-responsible (prison) terms with a median sentence of 2.0 years. Another 39.2% were sentenced to local-responsible (jail) terms with a median sentence of 2.5 months. The remaining 30.4% were not sentenced to an active term of incarceration to serve after sentencing.

Additionally, General District Court CMS data for the same two-year period indicated that 359 offenders were convicted of misdemeanors under §§ 3.2-6503, 3.2-6504, 3.2-6505, 3.2-6506, 3.2-6507, and 3.2-6570 for cruelty to animals. Of these, 24.6% were sentenced to jail terms with a median sentence of one month, while the remaining 75.4% were not sentenced to an active term of incarceration. It is not known how many of these offenses resulted in the serious injury, death, or euthanasia of the animal.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal amends § 3.2-6500 to expand the definition of a companion animal, potentially increasing the number of felony violations for certain acts of animal cruelty. Thus, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, available data do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, 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 increase the need for state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. Convictions under § 3.2-6570 are not covered by the sentencing guidelines when the offense is the primary, or most serious, offense at sentencing. 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 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 552 of the Acts of Assembly of 2021, 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.