



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 249 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Surovell)

LD #: 22107253

Date: 03/02/2022

Topic: Sexual abuse of animals, 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 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 adds § 18.2-361.01 to the *Code of Virginia*, related to carnal knowledge of a brute animal in terms of the penalties associated with such a crime.

Currently, it is a Class 6 felony under § 18.2-361(A) to carnally know, in any manner, any brute animal or voluntarily submit to such carnal knowledge. The proposal prohibits other acts with an animal to include any person who (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 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, or (v) produces, distributes, publishes, sells, transmits, finances, possesses, possesses with the intent to distribute, publish, sell, or transmit an obscene item depicting a person engaged in sexual conduct with an animal. Violation of these provisions would be a Class 6 felony under a new statute code §18.2-361.01.

Furthermore, the proposal provides that any person convicted of such a crime under the proposed §18.2-361.01 shall be prohibited from possessing, owning, or exercising control over any animal and may be ordered to attend an appropriate treatment program or obtain psychiatric or psychological counseling.

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**Analysis:**

Existing data sources do not contain sufficient detail to identify the number of additional individuals who, if the proposal were enacted, would be convicted of a Class 6 felony offense under § 18.2-361.01. However, affected offenders may be sentenced similarly to those sentenced under existing provisions of § 18.2-361(A).

According to the Sentencing Guidelines database for fiscal year (FY) 2016 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%) of these offenders did not receive an active term of incarceration to serve after sentencing. Three of these offenders (20.0%) received a local-responsible (jail) term with a median sentence of 3 months. The remaining seven offenders (46.7%) were given a state-responsible (prison) term with a median sentence of 2.0 years.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By creating a new felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data do not contain sufficient detail to estimate the number of individuals likely to be affected by the proposal. Therefore, the magnitude of the impact cannot be determined.

**Local adult correctional facilities.** Similarly, the impact of the proposal on local-responsible (jail) bed space needs 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.** As a new felony, convictions under the proposed § 18.2-361.01 would not be covered by the Sentencing Guidelines as the primary (or most serious) offense. If the proposal were enacted, the Sentencing Commission in the future would conduct detailed analyses of sentencing patterns under the new statute § 18.2-361.01 to determine the feasibility of adding and/or adjusting Sentencing Guidelines to align with sentencing practices as a result of the passing of this proposal.

**Juvenile direct care.** According to the Department of Juvenile Justice (DJJ), 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 of the Code of Virginia, 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 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**