



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2689

(Patron – Howell)

Date Submitted: 01/06/03

LD #: 03-8862772

Topic: Animal fighting

Proposed Change:

This proposal amends §§ 3.1-796.124 and 3.1-796.125 to expand the provisions prohibiting animal fighting and to increase the penalties associated with the fighting of cocks or other animals (except dogs). The proposal adds language to § 3.1-796.124 to make it a Class 6 felony to possess, own, train, transport or sell any dog with the intent that the dog engage in a fighting exhibition.

Under § 3.1-796.125, the proposal increases the penalties for animal fighting (other than dogs) from a Class 3 (punishable by up to a \$500 fine) to a Class 1 misdemeanor (punishable by up to 12 months in jail). In addition, the proposal expands § 3.1-796.125 to make it a Class 1 misdemeanor for a person to 1) promote animal fighting (excluding dogs), 2) attend animal fighting even if no admission is charged, 3) possess, own train, transport or sell animals (except dogs) for the purposes of fighting, 4) possess, own train, transport or sell cockfighting instruments, or 5) permit animal fighting on property under one's charge or control.

Current Practice:

Because a Class 3 misdemeanor is punishable by a fine only, data are insufficient to determine the number of convictions for engaging in or attending an animal fighting exhibition. Because possessing, owning, training, transporting or selling a dog for the purposes of fighting currently is not defined as a criminal act in the *Code of Virginia*, no data are available regarding the frequency of these acts.

According to fiscal year (FY) 2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, there were two felony convictions for promoting or engaging in organized dog fights under § 3.1-796.124(1) as currently written. In both cases, the offender was sentenced to probation without an active term of incarceration.

Convictions under §§ 3.1-796.124 and 3.1-796.125 are not covered by the sentencing guidelines as the primary offense but may augment the guidelines recommendation if a covered offense is the most serious at conviction.

Impact of Proposed Legislation:

The proposal may increase the number of offenders convicted of a Class 6 felony under § 3.1-796.124 for acts related to dog fighting and the number of offenders receiving a jail sentence under § 3.1-796.125

for fighting other types of animals. An impact on state-responsible (prison) and local-responsible (jail) bed space may result. However, data indicate that offenders recently convicted of a felony for promoting or engaging in dog fighting have received probation without active incarceration. Should judges sentence similarly for offenders convicted under the proposed new element of the dog fighting statute, an impact on state-responsible (prison) beds would not be expected. The impact of the amendments to § 3.1-796.125 relating to other types of animal fighting cannot be computed from existing data sources.

No adjustment to the sentencing guidelines would be necessary under the proposal.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.