



## Impact Analysis on Proposed Legislation

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### *Virginia Criminal Sentencing Commission*

### **House Bill No. 630**

*(Patron – O'Bannon)*

**Date Submitted:** 1/8/04

**LD #:** 04-7743312

**Topic:** Negligence of dog owners whose dogs attack & cause injury

#### **Proposed Change:**

This proposal adds a section numbered §3.1-796.127:2 pertaining to criminal liability of negligent owners whose dogs fight, attack, maul or kill. The proposal states that dog owners may be charged with a Class 5 felony if a victim is bitten by a dog and sustains substantial physical injury due to the owner's failure to exercise ordinary care. The proposed provision would not apply unless the owner knew or should have known of the dangerous or vicious nature of the dog, or if the victim failed to take all precautions that a reasonable person would ordinarily take. In addition, this section would not apply to veterinarians, animal control officers, and canine unit police officers in their official capacities.

#### **Current Practice:**

Currently, there are no crimes listed in the *Code of Virginia* specific to the criminal liability of negligent owners whose dogs attack and injure another person. A more general statute that defines 'dangerous' and 'vicious' dogs can be found under § 3.1-796.93:1. This statute gives the governing body of a city or county the authority to enact local ordinances with regard to such animals. In addition, it describes the procedure for determining whether a dog is 'dangerous' or 'vicious' as well as its owner's duty to protect the public. A violation of § 3.1-796.93:1 is a Class 1 misdemeanor with a twelve month maximum jail sentence.

#### **Impact of Proposed Legislation:**

The proposed legislation creates a new felony crime applicable to negligent dog owners. While the establishment of the new crime may have an impact on local and/or state responsible prison bed space, the extent of the impact cannot be quantified because the databases available in the Commonwealth are insufficient to provide information on specific ordinances in every city, county or town. The effect of the proposal on the need for state-responsible (prison) bed space, therefore, cannot be determined. The impact on community corrections programs is also unknown. 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 cannot be determined 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.**

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The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.