



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1039

Amendment in the Nature of a Substitute (Patron Prior to Substitute – Melvin)

LD#: 06-2465416

Date: 1/26/2006

Topic: Vicious animal attacks

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**
Cannot be determined, likely to be small

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

This proposal amends § 3.1-796.93:1 and adds § 18.2-54.3 related to punishment for vicious animal attacks. Under § 3.1-796.93:1, the proposal provides a law-enforcement officer with explicit power and procedure to act if there is reason to believe there is a dangerous or vicious dog within his jurisdiction. Currently, under § 3.1-796.93:1, localities may create ordinances that require the owner of a dangerous or vicious dog to comply with certain specified safety measures. The punishment, if the owner of a dangerous dog willfully fails to comply with the requirements of the ordinance, is a Class 1 misdemeanor.

The proposed § 18.2-54.3 creates a Class 6 felony if an owner or custodian willfully acts or has an omission in the care, control or containment of a dog or other animal that shows a reckless disregard for human life and is the proximate cause of such animal attacking and causing serious bodily injury to any person. Prima facie evidence of the owner's reckless disregard for human life is provided if the owner knew that the animal was roaming unrestricted at the time of the attack, and the owner knew that the animal had previously caused serious bodily injury or death to another. Under the proposal, the provisions of the statute would not apply when (1) the victim was committing a crime other than trespass upon the premises of the animal's owner, (2) the victim was an adult committing, at the time, a willful trespass or other tort upon the premises of the animal's owner, (3) the victim was provoking, tormenting, or physically abusing the animal, or was shown to have repeatedly provoked, tormented, abused, etc., the animal, or (4) the animal is a police dog engaged in the performance of its duties at the time of the attack.

Analysis:

According to the fiscal years (FY) 2003 and 2004 Local Inmate Data System (LIDS) database, there was one person held pre- or post-trial for a violation under § 3.1-796.93:1. That person was sentenced to a local-responsible (jail) sentence of 10 days.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation may increase the state-responsible (prison) bed space needs of the Commonwealth, but the magnitude of that impact cannot be quantified. Nonetheless, the impact is expected to be small.

Local adult correctional facilities. The proposal may increase the local-responsible (jail) bed space needs, but it is expected to be small.

Adult community corrections programs. The proposal may have an impact on adult community corrections programs; however, it is expected to be small.

Virginia's sentencing guidelines. As a new crime, convictions under § 18.2-54.3 would not be covered by Virginia's sentencing guidelines as the primary (most serious) offense; however, these convictions may augment the sentencing guidelines recommendation if the primary offense is one that is covered by the guidelines.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs. Under the length of stay (LOS) guidelines, the minimum range for a Class 6 felony is six to 12 months.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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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