



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1900 (Patron – Albo)

LD#: 07-8135204

Date: 12/07/2006

Topic: Depriving animals of food, water, shelter, etc. – subsequent offense

Fiscal Impact Summary:

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

- **Juvenile Correctional Centers:**
None
- **Juvenile Detention Facilities:**
None

Summary of Proposed Legislation:

The proposal expands subsection B of § 3.1-796.122 regarding cruelty to animals. Under the proposal, anyone who intentionally deprives any animal of necessary food, drink, shelter, or emergency veterinary treatment is guilty of a Class 6 felony if he has a previous conviction within the last five years for cruelty to animals under subsection A or B of this provision and the previous or current violation resulted in the death or euthanasia of the animal.

Under the existing § 3.1-796.122, subsection A, it is a Class 1 misdemeanor to deprive any animal of necessary food, drink, shelter or emergency veterinary treatment.

Analysis:

According to the FY2003 and FY2004 Local Inmate Data System (LIDS), 129 offenders held pre- or post-trial in jail were convicted of a Class 1 misdemeanor for cruelty to animals under § 3.1-796.122, subsection A (these data do not include offenders who were never booked into a jail for this violation). For offenders booked into jails, nearly all (98%) received an active term of incarceration for this offense; the median jail sentence was one month. The number of these offenders convicted for cruelty to animals due to the deprivation of food, drink, shelter or emergency treatment cannot be identified.

Based on CY2004 and CY2005 Pre/Post-Sentence Investigation (PSI) data, two offenders were convicted of a felony for a second or subsequent violation of § 3.1-796.122, subsection B. One offender did not receive incarceration to serve after sentencing and the other received a local-responsible (jail) sentence of three months.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing felony provision for cruelty to animals, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. While the impact cannot be quantified, it is expected to be small. Recent PSI data

reveal only two felony convictions for cruelty to animals under existing provisions and neither offender received a prison sentence.

Local adult correctional facilities. The proposal may increase local-responsible (jail) bed space needs because it expands the applicability for an existing felony. The magnitude of the impact cannot be quantified with existing data.

Adult community corrections resources. 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 adult community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections resources cannot be quantified. The impact, however, is expected to be small.

Virginia's sentencing guidelines. Convictions under § 3.1-796.122 are not covered by the sentencing guidelines as the primary (most serious) offense at conviction, but may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the guidelines would be necessary under the proposal.

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. Nonetheless, if a juvenile offender were to be convicted under the proposal, a judge has the ability to commit a juvenile offender for the proposed felony offense and, if remanded to DJJ, the minimum confinement assigned under the Department's Length of Stay (LOS) guidelines would be 6 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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