



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 592 *Amendment in the Nature of a Substitute* *(Patron Prior to Substitute – Norment)*

LD#: 08-3281806

Date: 2/29/2008

Topic: Animal Protection

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

Summary of Proposed Legislation:

The proposal amends §§ 3.1-796.113, 3.1-796.122, 3.1-796.124, and 18.2-403.2 and repeals § 3.1-796.125, relating to animal protection. The proposed modifications to § 3.1-796.124 expand and modify existing provisions related to dog fighting to include the fighting of any other kind of animal. Under the proposal, promoting, engaging in, or attending an animal fighting exhibition, or authorizing another person to undertake any of these acts, would be a Class 1 misdemeanor or, under certain circumstances, a Class 6 felony. Animal fighting would be a Class 6 felony in the following circumstances: 1) a dog is involved; 2) any device or substance intended to enhance an animal's ability to fight is used; 3) money or anything of value is wagered; 4) money or anything of value is received for admission; 5) an animal is possessed, trained, or sold for the purpose of animal fighting, or 6) a minor is allowed to attend or be involved in animal fighting.

The proposal has the effect of increasing the penalty for engaging in or attending an animal fighting (except dog fighting) exhibition from a Class 3 misdemeanor (fine only) up to a Class 1 misdemeanor or up to a Class 6 felony if the act involved any of the circumstances listed above. Engaging in dog fighting would remain a Class 6 felony, but the proposal would raise the penalty for attending a dog fight from a Class 1 misdemeanor to a Class 6 felony. The proposal expands existing dog and animal fighting provisions to prohibit the use of devices or substances to enhance an animal's fighting ability and to make it unlawful to allow a minor to attend or be involved in animal fighting.

Additional provisions involving the forfeiture of animals confiscated in animal fighting cases are also outlined in the proposal.

Analysis:

According to fiscal year (FY) 2006 and FY2007 Pre-Sentence Investigation (PSI) data, there were three felony convictions under § 3.1-796.124 involving dog fighting. One offender, convicted of possessing,

training, or selling a dog for fighting, received a state-responsible (prison) sentence of 4 years. The remaining two defendants were convicted of promoting or engaging in organized dog fighting and received prison terms of 1.6 and 2 years, respectively. Local Inmate Data System (LIDS) data for calendar year (CY) 2005 and CY2006 show no convictions under § 3.1-796.125(C) for attending a dog fighting exhibition.

The crimes defined in § 3.1-796.125, relating to the fighting of other kinds of animals, are currently punishable by a fine only. No convictions for these offenses could be identified in general district court data for calendar year (CY) 2005 and CY2006.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal increases the penalty for an existing offense from a misdemeanor to a felony in certain circumstances and expands existing felony provisions to cover additional acts. As a result, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from the proposal cannot be estimated with existing data; therefore, the potential impact of the proposal cannot be quantified.

Local adult correctional facilities. The proposal may increase local-responsible (jail) bed space needs; however, 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 cannot be quantified.

Virginia's sentencing guidelines. Convictions under §§ 3.1-796.124 and 3.1-796.125 are not covered by the sentencing guidelines as the primary (or most serious) offense. A conviction under one of these provisions, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. Because the proposal increases the penalty for certain acts from a misdemeanor punishable by fine only to a felony, the proposal could result in additional commitments to the Department of Juvenile Justice (DJJ). Existing *Code* specifies that a juvenile is eligible for commitment if he is adjudicated for a felony, has a prior felony adjudication, or has accumulated a total of four Class 1 misdemeanor adjudications. According to DJJ, the proposal may have an impact on bed space needs in juvenile correctional centers, but the magnitude of the impact cannot be quantified.

Juvenile detention facilities. The Department of Juvenile Justice reports that the impact on the bed space needs of juvenile detention facilities cannot be determined.

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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.