



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1930 (Patron – Marshall, D.W.)

LD #: 11100966

Date: 12/13/2010

Topic: Creation of an animal abuser registry

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$49,321 (2 beds)
- **Local Adult Correctional Facilities:**  
\$1,934 (less than 1 bed)
- **Adult Community Corrections Programs:**  
Cannot be determined

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

#### Summary of Proposed Legislation:

The proposal adds § 3.2-6571.1 to the *Code of Virginia* relating to the creation of an animal abuser registry. Under the proposal, an “animal abuser” is defined as an adult who has been convicted of a felony violation of §§ 3.2-6570 or 3.2-6571, or of a substantially similar law of another state or of the United States. Felony violations under § 3.2-6570 include torturing or mutilating a dog or cat causing death, a second or subsequent conviction involving cruelty to animals, in which one act resulted in death, or a second or subsequent conviction involving killing a dog or cat for hide, fur or pelt. Felony convictions under § 3.2-6571 include promoting, attending, or allowing animal fighting in combination with another criminal behavior such as wagering, paying or receiving admission for a fight, possessing an animal for fighting, possessing a device to enhance an animal’s ability to fight, or allowing a minor child to attend or be involved in animal fighting.

The proposal would require an animal abuser to register annually in person at the sheriff’s office in the locality where he resides for a period of 15 years following his initial registration. The animal abuser would be required to register in person with the sheriff within 10 consecutive days of physically being within the boundaries of the Commonwealth. In addition, any previously registered animal abuser would be required to reregister with the sheriff no later than 10 days after moving to a new location within the Commonwealth. Under the proposal, intentionally or knowingly failing to comply with the registration requirements would be punishable as a Class 6 felony.

The proposed legislation would also require the sheriff 1) to maintain a local registry with the information of all animal abusers in his jurisdiction, 2) to provide every residence, school, humane society, animal shelter, and business within a half-mile radius of the defendant’s residence the registration information of the animal abuser, with the exception of his social security number, and 3) to forward all registry information to the State Police. Furthermore, State Police would be required to maintain a central registry of animal abusers, provide the information (with the exception of social security numbers) to the public on their website, etc., and maintain the records for the duration of the 15-year period in which the animal abuser is required to register.

Currently, the only other crimes in Virginia for which offenders must register are sex offenses and certain crimes against minors, specifically those listed under § 9.1-902. Offenders who are required to register with the Sex Offender and Crimes Against Minors Registry are assigned to one of two categories based on the offense for which they have been convicted. Offenders who have been convicted of a sexually violent offense as defined in § 9.1-902 comprise the majority of offenders who must register. Sexually violent offenders are required to register more frequently and, per § 18.2-472.1, are subject to higher penalties for violating registration procedures. For a sexually violent offender, it is a Class 6 felony to violate Registry requirements, while any second or subsequent violation is elevated to a Class 5 felony. Other sex offenders make up a smaller portion of those on the Registry. For these offenders, it is a Class 1 misdemeanor to violate Registry procedures, but a second or subsequent violation becomes a Class 6 felony.

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### Analysis:

According to the Circuit Court Automated Information System (CAIS) for fiscal years 2009 and 2010, there were 39 felony convictions for crimes committed under §§ 3.2-6570 and 3.2-6571. Over one-third (36%) of these offenders were convicted of torturing or mutilating a dog or cat causing death under § 3.2-6570. Just over one-third (36%) were convicted of possessing a device or substance used to enhance an animal's ability to fight under § 3.2-6571. For the 27 offenders for which a conviction under §§ 3.2-6570 or 3.2-6571 was the primary (or most serious) offense in the event, more than half (56%) received no active incarceration, 29% received a local-responsible (jail) term with a median sentence of 2.0 months, and 15% received a state-responsible (prison) term with a median sentence of 1.8 years.

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### Impact of Proposed Legislation:

**State adult correctional facilities.** Because it adds a new Class 6 felony to the *Code of Virginia*, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. If violations of the animal abuser registry are committed and result in conviction at the same rate as violations of Sex Offender Registry provisions (specifically among offenders not classified as “sexually violent”), the proposal would be expected to produce approximately two additional felony convictions in FY2012, with this figure increasing to nine felony convictions in FY2017. If animal abuse registry violators are given sentences similar to those received for the original animal abuse felony (see *Analysis* section above), the impact on state-responsible (prison) beds is estimated to be two beds by FY2017. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$49,321.

#### Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY12	FY13	FY14	FY15	FY16	FY17
0	0	1	1	1	2

**Local adult correctional facilities.** The proposal will also increase the future need for local-responsible (jail) beds. The impact on local-responsible (jail) beds is estimated to be an average of less than one bed by FY2017 (state costs: \$1,934; local costs: \$3,066).

**Adult community corrections programs.** The proposal's impact on adult community corrections resources cannot be determined.

**Virginia’s sentencing guidelines.** As a new felony, convictions under the proposed statute would not be covered by the sentencing guidelines when this crime is the primary (most serious) offense. Conviction for such an offense, 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.** According to the Department of Juvenile Justice (DJJ), the proposal will not increase juvenile correctional center (JCC) bed space needs.

**Juvenile detention facilities.** According to the Department of Juvenile Justice (DJJ), the proposal will not affect juvenile detention facility bed space needs.

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**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$49,321 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.**

**Assumptions underlying the analysis include:**

**General Assumptions**

1. State and local responsibility is based on § 53.1-20 as analyzed for the Secretary of Public Safety’s Committee on Inmate Forecasting in 2010.
2. New cases resulting in state-responsible sentences were based on forecasts developed by the Secretary of Public Safety’s Committee on Inmate Forecasting and approved in 2010.
3. Cost per prison bed was assumed to be \$27,065 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. ***Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.***
4. Cost per jail bed was based on The Compensation Board’s FY2009 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$28.86 per day or \$10,541 per year. The local cost was calculated by using the daily expenditure cost of \$87.30 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$45.75 per day or \$16,712 per year. ***Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.***

**Assumptions relating to offenders**

1. The number of registrants in the animal abuser registry will begin with those convicted of animal abuse felonies under §§ 3.2-6570 and 3.2-6571 on or after July 1, 2011. It was assumed that the same number individuals would be convicted under these provisions each year. The number of offenders on the Registry will grow. For offenders given a jail or prison sentence for the original animal abuse conviction, it was assumed that they would not be added to the Registry until they had satisfied nearly all of the sentence and were approaching their release date.
2. The number of offenders convicted for animal abuse registry violations was estimated based on the rate at which offenders who are required to register with the state’s Sex Offender Registry (specifically those not classified as “sexually violent”) are convicted for violating their registration requirements. According to the State Police, there were 2,950 non-sexually violent registrants on the Sex Offender Registry as of December 1, 2010. During FY2010, there were 191 misdemeanor and 33 felony convictions under § 18.2-472.1 for registry violations by non-sexually violent offenders. It was assumed that the rate of Animal Abuse Registry violations resulting in conviction would be the same  $((191+33)/2950 = 7.6\%)$ . If registrants violate the conditions of the animal abuse registry at the same rate as those on the Sex Offender Registry, and these violations result in conviction at the same rate, the proposal is expected to produce approximately two additional felony convictions in FY2012, with this figure increasing to nine additional felony convictions in FY2017.

**Assumptions relating to sentence lengths**

1. The impact of the proposed legislation, which would be effective on July 1, 2011, is phased in to account for case processing time. Additional startup time (6 months) was built into the simulation model's case processing time to allow for the complexities and coordination of law enforcement resources.
2. To gauge the impact on sentencing, it was assumed that the distribution of sentences for the violation cases will be similar to the distribution of sentences for the underlying animal abuse felonies (§§ 3.2-6570 and 3.2-6571).
3. Release dates were estimated based on the average rates at which inmates in Department of Corrections' facilities were earning sentence credits as of December 31, 2009. For non-violent offenses, this rate was 11.5%.

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