



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 729 (Patron – DeSteph)

LD #: 18100183

Date: 10/26/2017

Topic: Cruelty to animals

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000\*
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

- **Juvenile Direct Care:**  
Cannot be determined\*\*
- **Juvenile Detention Facilities:**  
Cannot be determined\*\*

\*\*Provided by the Department of Juvenile Justice

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 836 of the 2017 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal amends several sections of the *Code of Virginia* relating animal cruelty. Currently, felony violations of § 3.2-6570 include torturing, mutilating, etc., a dog or cat resulting in death, a second or subsequent conviction involving cruelty to animals in which at least one act resulted in death, or a second or subsequent conviction involving the killing of a dog or cat for hide, fur or pelt. Crimes punishable as Class 1 misdemeanors under § 3.2-6570 include depriving any animal of necessary food, drink, shelter, or emergency veterinary treatment, willfully inflicting inhumane injury to any animal, and soring an equine for any purpose.

Under the proposal, the existing § 3.2-6570(F), relating to torturing, mutilating, etc., a dog or cat resulting in death, would be expanded to include any dog or cat, not just a dog or cat that is a companion animal. Additionally, a resulting death would no longer be required for a felony conviction relating to a dog or cat. Under the proposed § 3.2-6570(H), any person who, with aggravated cruelty, intentionally kills or causes serious physical injury to any companion animal for no justifiable purpose would be guilty of a Class 6 felony.

#### Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2016 and FY2017, 28 offenders were convicted of a Class 6 felony under § 3.2-6570(F) for torture or mutilation of a dog or cat resulting in death. The animal cruelty conviction was the primary, or most serious, offense in 21 of the cases. Seven offenders, accounting for slightly more than one third (33.3%) of these offenders,

received a local-responsible (jail) term with a median sentence of six months. Eight offenders (38.1%) did not receive an active term of incarceration to serve after sentencing. The remaining six offenders (28.6%) received a state-responsible (prison) term with a median sentence of 1.75 years.

General District Court CMS data for FY2016 and FY2017 indicate that 427 offenders were convicted of a misdemeanor under § 3.2-6570 for animal cruelty. The majority (81%) of these offenders did not receive an active term of incarceration to serve after sentencing. The median sentence for the 19% who were sentenced to a local-responsible (jail) term was about 20 days.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it expands the applicability of an existing Class 6 felony and establishes a new Class 6 felony, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of new felony convictions that could result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal may increase the local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

**Adult community corrections programs.** Because the proposal could result in felony convictions and subsequent supervision requirements for additional offenders, the proposal may increase the need for adult community corrections resources. However, the impact on community corrections programs cannot be calculated.

**Virginia's sentencing guidelines.** Felony convictions under § 3.2-6570 are not covered by the sentencing guidelines when these offenses are the primary, or most serious, offense in a case. However, convictions under this statute 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 direct care.** According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined.

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

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**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; therefore, Chapter 836 of the 2017 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.**

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**