Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1604
(Patron – DeSteph)

LD #: 19104235 **Date:** 1/8/2019

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 2 of the Acts of Assembly of 2018, Special Session I, 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 to 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 felony defined in § 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. The proposal explicitly includes in the felony the killing of any dog or cat. Current law states that the conduct causes the death or euthanasia of a companion dog or cat.

Analysis:

According to the fiscal year (FY) 2017 and FY2018 Circuit Court Case Management System (CMS) database, there were two felony cases of cruelty to animals, second or subsequent violation under § 3.2-6570; one offender was sentenced to serve twelve months in jail and the other was sentenced to approximately 8.3 years in prison. There were also 31 cases of torture or mutilation of a companion animal causing death; of these, 25.8% received prison terms (median sentence of 1.8 years), while 45.2% were sentenced to jail terms (median sentence of 3.3 months). The remaining 29.0% were not sentenced to an active term of incarceration to serve after sentencing. There were no felony convictions for the killing of a dog or cat for its hide, fur or pelt.

Additionally, General District Court CMS data for the same period indicated that there were 422 misdemeanor convictions for cruelty to animals; of these, 21.6% were sentenced to jail terms with a median sentence of one month, while the remaining 78.4% were not sentenced to an active term of incarceration. It is not known how many of these offenses resulted in the death or euthanasia of the animal, which, under the proposal, would be elevated to a felony. There were no misdemeanor convictions for the killing of a dog or cat for its hide, fur or pelt.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing 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.

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 2 of the Acts of Assembly of 2018, Special Session I, 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.

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