



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1135 Floor Amendment in the Nature of a Substitute (Patron Prior to Substitute – Marsden)

LD#: 21104008

Date: 1/29/2021

Topic: Dangerous dogs

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

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

*Provided by the Department of Juvenile Justice

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal amends §§ 3.2-6540 and 3.2-6542 and adds several sections to the *Code of Virginia* to restructure the procedure for adjudication of a dog as a dangerous dog. The bill authorizes an officer to obtain a summons for a hearing to determine whether a dog that has been surrendered is a dangerous dog, and provides that any dangerous dog not reclaimed from the animal control officer within 10 days of notice shall be considered abandoned. The proposal imposes new requirements for the transfer of dangerous dogs, requiring a releasing agency to notify the receiving party of the legal requirements for keeping a dangerous dog. Any owner who disposes of a dangerous dog by gift, sale, transfer, trade, or surrender shall notify the receiver in writing of the dog's adjudication as dangerous; violation of this provision would be a Class 3 misdemeanor. Under the proposed § 3.2-6540.03, any owner of a dangerous dog who is charged with a violation and is found to have willfully failed to comply with these requirements is guilty of a Class 1 misdemeanor. The bill also contains technical amendments.

Currently, § 3.2-6540 lists several misdemeanor offenses related to the failure to contain or control dangerous dogs. An owner of a dog declared dangerous is guilty of a Class 1 misdemeanor if the dog bites or injures a human or a Class 2 misdemeanor if the dog attacks or injures a companion animal. If the failure to control a dangerous dog or other animal results in a serious injury to a human, the offense is a Class 6 felony.

Analysis:

According to General District Court Case Management System (CMS) data for fiscal year (FY) 2015 through FY2020, there were 449 misdemeanor convictions for violations related to the failure to control dangerous dogs under § 3.2-6540. This offense was the primary, or most serious offense, in 379 cases. In 97.9% of the cases, the offender did not receive an active term of incarceration to serve after sentencing. In eight cases (2.1%), the offender was sentenced to a local-responsible (jail) term with a median sentence of approximately 11 days. Circuit Court CMS data for the same time period indicated that one offender was convicted of a Class 6 felony under this section for failure to control a dangerous dog or other animal resulting in serious injury to a human; this offender did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities.¹ The proposal restructures the procedure for declaring a dangerous dog and moves provisions related to an existing Class 6 felony to a new *Code* section in Title 18.2. Because it does not expand the applicability of the existing felony, the proposal is not expected to have an impact on the state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. The proposal does not expand the applicability of current felony or misdemeanor offenses. Therefore, the proposal is not expected to increase the future local-responsible (jail) bed space needs.

Adult community corrections programs. No impact on community corrections programs is expected.

Virginia's sentencing guidelines. Convictions under § 3.2-6540 are not covered by the sentencing guidelines when the offense is 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. According to the Department of Juvenile Justice, the impact of the proposal 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 is \$0 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.

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