



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 302

(Patron – Rasoul)

LD #: 16100273

Date: 12/14/2015

Topic: Cruelty to Elephants

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **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\*\*

\*\*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 665 of the 2015 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal modifies § 3.2-6570 of the *Code of Virginia* to make it a Class 1 misdemeanor to: use electricity, martingales, or block and tackle, or engage in physical punishment, or insert any instrument into any bodily orifice of an elephant to discipline an elephant; use any device designed to inflict pain for the purpose of training or controlling the behavior of an elephant; or to brandish, exhibit, or display any device designed to inflict pain for the purpose of training or controlling behavior of an elephant in the presence of an elephant. Under the proposal, a second or subsequent violation would be a Class 6 felony if the current violation or any previous violation resulted in the death of the animal.

Currently, 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 at least one act resulted in death, or a second or subsequent conviction involving killing 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 instigating an act of cruelty to any animal, and soring any equine for any purpose.

#### Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2010 through FY2015, five offenders were convicted of a Class 6 felony under § 3.2-6570(B) for a second or subsequent conviction for cruelty to animals in which one of the acts resulted in death. The animal cruelty conviction was the primary, or most serious, offense in all of the cases. One of these offenders received a local-responsible (jail) term of two days. Three offenders received state-responsible (prison)

terms, with a median sentence of three years. The remaining offender did not receive an active term of incarceration to serve after sentencing.

General District Court CMS data for FY2014 and FY2015 indicate that 406 offenders were convicted of a misdemeanor under § 3.2-6570 for animal cruelty. Nearly three-quarters (74.4%) of these offenders did not receive an active term of incarceration to serve after sentencing. The median sentence for the 25.6% who were sentenced to a local-responsible (jail) term was one month.

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**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, the number of additional felony convictions that may result from enactment of the proposal cannot be estimated; therefore, the magnitude of the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** The proposal may also increase 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 an additional number of offenders, the proposal may increase the need for state 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.** Felony convictions under § 3.2-6570 are not covered by the sentencing guidelines when this 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 correctional centers.** According to the Department of Juvenile Justice (DJJ), the impact of the proposal on juvenile correctional center (JCC) 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 665 of the 2015 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.**