



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1065

(Patron – Kory)

LD#: 20100771

Date: 11/26/2019

Topic: Animal cruelty videos

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 854 of the 2019 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 § 3.2-6570 to make it a Class 6 felony for any person to knowingly and intentionally create, record, distribute, sell, advertise, or appear in any videographic or still image depicting animal cruelty. The proposal provides for certain exceptions in cases of law-enforcement investigations of animal cruelty.

Currently, § 3.2-6570 specifies felony penalties for (i) a second or subsequent act of cruelty to animals if the current or past act of cruelty resulted in the death or euthanasia of the animal, (ii) a second or subsequent killing of a dog or cat for its hide, fur or pelt, and (iii) the torture or mutilation of a companion dog or cat causing death or serious injury. Other violations of § 3.2-6570 are punishable as Class 1 misdemeanors. However, § 3.2-6570 does not prohibit the recording, etc., of acts of animal cruelty.

Analysis:

According to the fiscal year (FY) 2018 and FY2019 Circuit Court Case Management System (CMS) database, three offenders were convicted of a felony for cruelty to animals, second or subsequent violation, under § 3.2-6570; one offender was sentenced to approximately 8.3 years in prison (this individual was also convicted of other charges), while another offender was sentenced to serve twelve months in jail. The remaining offender did not receive an active term of incarceration to serve after sentencing. In addition, 32 offenders were convicted of a felony for the torture or mutilation of a companion dog or cat causing death or serious injury; of these, 31.3% received prison terms (median sentence of 1.6 years), while 43.8% were

sentenced to jail terms (median sentence of 2.0 months). The remaining 25.0% were not sentenced to an active term of incarceration to serve after sentencing.

Additionally, General District Court CMS data for the same two-year period indicated that 448 offenders were convicted of misdemeanors under § 3.2-6570 for cruelty to animals. Of these, 21.7% were sentenced to jail terms with a median sentence of one month, while the remaining 78.3% were not sentenced to an active term of incarceration.

Existing data sources do not contain sufficient detail to estimate the number of additional felony convictions under § 3.2-6570 that may result from the proposal's enactment.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates a new Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing data do not provide sufficient detail to estimate the number of offenders who would be affected by the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may also increase local-responsible (jail) bed space needs. However, 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. Convictions under § 3.2-6570 are not covered by the sentencing guidelines when the offense is the primary, or most serious, offense at sentencing. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is 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 854 of the 2019 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.