



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 369 (Patron – Ebbin)

LD#: 24101066

Date: 12/11/2023

Topic: Maiming, killing, or poisoning fowl or companion animals

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$227,109 (4 beds)
- **Local Adult Correctional Facilities:**
-\$10,214 (-1 partial bed)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
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 § 18.2-144, relating to maiming, killing, or poisoning livestock, fowl, or companion animals. Currently, it is a Class 5 felony for any person to maliciously shoot, stab, or wound or otherwise cause bodily injury to, administer poison to, or expose an animal to poison with the intent that it be taken by, any horse, mule, pony, cattle, swine, or other livestock of another, with intent to maim, disfigure, disable, or kill the animal, or if he does any of the foregoing acts to any animal of his own with intent to defraud an insurer. Under the same section, if any person does any of the foregoing acts to any fowl or to any companion animal with any of the aforesaid intents, he or she is guilty of a Class 1 misdemeanor for the first offense and a Class 6 felony for a second or subsequent offense if certain conditions are met.¹

The proposal would elevate the current Class 1 misdemeanor (first offense) and Class 6 felony (second or subsequent offense) involving fowl or companion animals to a Class 5 felony, making it equivalent to the penalty for committing such an offense against livestock.

Analysis:

A review of fiscal year (FY) 2018 through FY 2023 General District Court Case Management System (CMS) data revealed that 15 offenders were convicted of a Class 1 misdemeanor under § 18.2-144 for maiming, killing, etc., a fowl or companion animal. Of the 15 offenders, 40% received a local-responsible (jail) term with a median sentence of 6.0 months while the remaining 60% were not given an active term of incarceration to serve after sentencing.

¹ Under current law, felony offenses defined in § 18.2-144 are eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby offenders will serve a minimum of 67% of the sentence ordered by the court. The proposed legislation does not change the earned sentence credits available to offenders convicted of these felonies.

Circuit Court CMS data for the same six-year period revealed that only one offender was convicted of a Class 6 felony under §18.2-144 for a second offense of maiming, killing, etc., a fowl or companion animal (as the primary, or the most serious, offense). The offender received a state-responsible (prison) term with a sentence of 6.0 years.

The same Circuit Court CMS data indicates that there were six offenders convicted of a Class 5 felony under § 18.2-144 (as the most serious offense) for maiming, killing, etc., a horse or other livestock. Three offenders received a state prison term for which the median sentence was 3.0 years, while one offender received a local-responsible (jail) term with a sentence of 7.0 months. The remaining two offenders were not given an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the penalty for an existing Class 1 misdemeanor and Class 6 felony to a Class 5 felony, the proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth. The impact is estimated to be four beds statewide by FY2030. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$227,109.

Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY25	FY26	FY27	FY28	FY29	FY30
1	2	3	3	4	4

Local adult correctional facilities. The proposal is expected to decrease the need for local-responsible (jail) beds, since some offenders currently sentenced to jail would serve a state-responsible (prison) term under the proposal. The impact on local jail beds is estimated to be one partial bed by FY2030 (state savings: \$10,214; local savings: \$16,021).

Adult community corrections resources. The proposal is not expected to increase the need for community corrections resources and will delay the need for services for some offenders affected by the proposal, as they will stay in prison longer prior to being released to the community.

Virginia's Sentencing Guidelines. Convictions under § 18.2-144 are not covered by the Sentencing Guidelines as the primary, or most serious, offense. Such a conviction, however, could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. For Guidelines purposes, existing felonies under § 18.2-144 are not defined as violent (§ 17.1-805(C)). 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 is \$227,109 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.

Assumptions underlying the analysis include:

General Assumptions

1. State and local responsibility is based on § 53.1-20 as analyzed for the Secretary of Public Safety's Committee on Inmate Forecasting in 2023.
2. New cases resulting in state-responsible sentences were based on forecasts approved by the Secretary of Public Safety's Committee on Inmate Forecasting in 2023.
3. Cost per prison bed was assumed to be \$52,894 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.*
4. Cost per jail bed was based on The Compensation Board's FY2021 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$40.39 per day or \$14,752 per year. The local cost was calculated by using the daily expenditure cost of \$107.81 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$63.35 per day or \$23,139 per year. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.*

Assumptions relating to offenders

1. The Commission identified all sentencing events during FY2018-FY2023 in which a Class 1 misdemeanor or a Class 6 felony under § 18.2-144 was the primary, or most serious, offense. Defendants convicted of these offenses will be affected by the proposed legislation.

Assumptions relating to sentencing and time served

1. The impact of the proposed legislation, which would be effective on July 1, 2024, is phased in to account for case processing time.
2. Offenders affected by the proposal (convicted of a Class 1 misdemeanor or a Class 6 felony under § 18.2-144 currently) were assumed to receive sentences similar to offenders convicted of the Class 5 felony under the same section.
3. The state-responsible bed-space impact was derived by estimating the difference between expected dates of release under current law and under the proposed legislation. Release dates were estimated based on the average rates at which inmates in Department of Corrections' facilities were earning sentence credits as of September 30, 2023. Beginning July 1, 2022, most nonviolent felons were eligible for higher rates of earned sentence credits (up to 15 days for every 30 days served, see § 53.1-202.3). For offenders convicted of maiming, killing, or poisoning livestock, fowl, or companion animals and sentenced during the forecast horizon, the overall average rate of sentence credits earned by these individuals was estimated to be 27.7%.

Limitations

1. The analysis does not include cases from Alexandria as data from that jurisdiction are unavailable.

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