



# Fiscal Impact Statement for Proposed Legislation

## Virginia Criminal Sentencing Commission

### Senate Bill No. 369 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Ebbin)

LD#: 24105842

Date: 01/24/2024

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

#### Fiscal Impact Summary:

<ul style="list-style-type: none"> <li>• <b>State Adult Correctional Facilities:</b> \$50,000 *</li> <li>• <b>Local Adult Correctional Facilities:</b> Cannot be determined</li> <li>• <b>Adult Community Corrections Programs:</b> Cannot be determined</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Juvenile Direct Care:</b> Cannot be determined**</li> <li>• <b>Juvenile Detention Facilities:</b> Cannot be determined**</li> </ul> <p>**Provided by the Department of Juvenile Justice</p>
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\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

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, companion animals, or fowl. 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 to commit any of the foregoing acts to any animal of his own with intent to defraud an insurer. 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 violation if the current or previous offense results in the death or euthanasia of the animal.<sup>1</sup>

The proposal would amend § 18.2-144 to increase the penalty for malicious acts committed against companion animals from a Class 1 misdemeanor to a Class 5 felony. Acts committed unlawfully, but not maliciously, against companion animals would remain a Class 1 misdemeanor, as would any of the described acts committed against a fowl. The proposal eliminates the Class 6 felony penalty for second or subsequent violations when the current or previous offense results in the death or euthanasia of the animal.

<sup>1</sup> 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.

**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.

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 indicate 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.

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**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 under certain circumstances, the proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of defendants who would be affected by the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be quantified.

**Local adult correctional facilities.** Similarly, the impact of the proposal on local-responsible (jail) bed space needs cannot be estimated.

**Adult community corrections resources.** Because the proposal could result in additional felony convictions with supervision requirements for the offenders, the proposal may affect adult community corrections programs. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections resources cannot be quantified.

**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.

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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 1 of the Acts of Assembly of 2023, 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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