



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 55 of the 128th G.A.

Date: March 31, 2009

Status: As Introduced

Sponsor: Reps. B. Williams and Combs

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Animal protection

State Fiscal Highlights

- **Certain state agencies.** From the fiscal perspective of the state, the bill will, in all likelihood, generate some additional ongoing work for several state agencies, in particular the Department of Rehabilitation and Correction's Adult Parole Authority (APA), the State Board of Psychology, the State Medical Board, and the Counselor, Social Worker, and Marriage and Family Therapist Board, but the annual magnitude of any associated operating costs would likely be minimal at most.

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2010 – FUTURE YEARS

Counties and Municipalities (criminal, juvenile, and civil justice systems)

Revenues	Potential gain in fine moneys, generally distributed to the society or association for the prevention of cruelty to animals and likely to be no more than minimal annually
Expenditures	Factors potentially increasing county and municipal criminal, juvenile, and/or civil justice system costs, net effect may be no more than minimal annually for any affected local jurisdiction

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Cruelty to animal revenues.** Generally, if collected, fine moneys collected as a result of animal cruelty violations are distributed by the clerk of court to the society or association for the prevention of cruelty to animals, if there is such an entity in the county, township, or municipal corporation where the violation occurred. LSC fiscal staff has acquired no information suggesting that the amount of additional fine revenue that might be generated as a result of the bill's penalty enhancement will exceed minimal annually. This is likely to be the case because courts generally do not impose the maximum possible fine and certain offenders are unable and/or unwilling to pay.
- **County and municipal expenditures.** The bill contains numerous provisions that potentially increase the annual costs of various components of county and municipal criminal, juvenile, and/or civil justice systems to process persons whose conduct constitutes a violation of the state's prohibitions against cruelty to a companion

animal. Although LSC fiscal staff is unable to quantify each provision's potential local cost, the net fiscal effect of these provisions as a group on any affected county or municipality appears likely to be no more than minimal annually.

Detailed Fiscal Analysis

Operation of the bill

For the purposes of this fiscal analysis, the bill most notably:

- Increases the penalty for committing cruelty to animals for a second and subsequent violation from a misdemeanor of the second degree to a misdemeanor of the first degree.
- Permits a court, in addition to any other sanctions it imposes on the offender, to impose a term of basic probation supervision or a term of intensive probation supervision on an offender who violates one of the prohibitions against committing cruelty to a companion animal more than once.
- Requires a court, in addition to any other disposition that it makes for a delinquent child, to require a child under 18 years of age who is adjudicated a delinquent child for violating the prohibition against committing cruelty to a companion animal to undergo psychological evaluation, and, if that evaluation determines that it is appropriate, to undergo counseling.
- Requires the State Board of Psychology and the State Medical Board to approve one or more continuing education courses that pertain to the counseling of individuals who abuse animals.
- Permits the court to include a companion animal in some types of protection orders.

Cruelty to animals

County revenues

Under current law, a violation of the offense of cruelty to a companion animal is a misdemeanor of the second degree (M2). The bill makes no change to the offense's penalty for a first violation; however, the penalty for a second or subsequent violation is enhanced to a misdemeanor of the first degree (M1). The maximum fine for misdemeanors of the first and second degree is \$1,000 and \$750, respectively. Under current law, if collected, these fine moneys are distributed by the clerk of court to the society or association for the prevention of cruelty to animals, if there is such an entity in the county, township, or municipal corporation where the violation occurred.

According to data provided to LSC fiscal staff by the state's Division of Criminal Justice Services, the number of cruelty to animal and cruelty to companion animal charges filed annually is approximately 400 statewide. We have not acquired any information suggesting that the amount of additional fine revenue that might be

generated as a result of the penalty enhancement will exceed minimal annually. This is likely to be the case because courts generally do not impose the maximum possible fine and certain offenders are unable and/or unwilling to pay.

County and municipal jails

The maximum jail stay for misdemeanors of the first and second degree is 6 months and 90 days, respectively. Thus, under the bill, the court could impose a longer jail stay on a repeat violator than would otherwise be permitted under existing law. Such an outcome could increase the affected local jail's daily operating expenses if that bed would otherwise have been empty or available for housing other offenders. The number of situations in which this scenario might actually occur appears likely to be relatively few, which, if true, suggests that any subsequent increase in a jail's annual operating expenses is likely to be minimal at most.

Courts of common pleas

All matters of law regarding juveniles are heard in the court of common pleas. Typically, the court will have a division dedicated to adjudicating delinquent and unruly juveniles; otherwise, the matter is under the jurisdiction of the general division. Under current law, the court may impose psychological counseling for a violation involving cruelty to animals if the offender (juvenile or adult) is believed to suffer from a mental or emotional disorder. In the case of a child under 18 years of age who is adjudicated a delinquent child for violating the prohibition against committing cruelty to a companion animal, the bill requires the court order the child to undergo psychological evaluation, and, if the evaluation determines that it is appropriate, to undergo counseling.

Psychological counseling can be provided and funded through a variety of mechanisms depending on the juvenile's situation. First, the bill provides that the court may order the parent, guardian, or other person having care of the child pay for such treatment. If the court does not issue such an order, or the responsible party is unable to pay for such services, the court contracts with mental health providers locally to ensure such treatment is available. The funding for this treatment is provided by the court using a variety of funds allocated to it for the treatment of juveniles. The Department of Youth Services provides RECLAIM Ohio funds for such treatment. Additionally, if the child is in the custody of a county childrens services agency (CCSA), it may provide the necessary funding. Finally, the juvenile may be eligible for Medicaid or another private funding mechanism that will cover the psychological counseling required.

Data provided to LSC fiscal staff by the state's Division of Criminal Justice Services indicates that few violations of this kind are reported against juveniles annually. The number of additional treatments required by the bill is not expected to more than negligibly impact any affected court of common pleas. The court already has staff and medical personnel and funding sources in place to provide these services, so

no new operating procedures will need to be developed. Furthermore, under current law and practice, certain courts may already be imposing treatment in relation to their behavior towards animals.

Protection orders

According to information recorded in the state's Law Enforcement Automated Data System (LEADS), there are approximately 34,000 active protection orders in Ohio. The bill extends the reach of certain protection orders issued by municipal, county, and common pleas courts to include companion animals. According to data provided by the Human Society of the United States, approximately 53% of the national population has at least one companion animal, which suggests that there could be a significant increase in whom or what is covered by any given protection order. Such an outcome raises potential local fiscal concerns related to the issuance and enforcement of certain protection orders, concerns that appear to be minimized by two factors discussed in the immediately following paragraph.

First, the bill is written such that the companion animal protections are automatically given, so the court will not need to hold additional hearings specifically related to this issue. By not having to hold additional hearings, the court is able to avoid creating additional operating expenses when extending these protections. Second, the number of new cases for violating a protection order based solely on the new prohibition regarding a companion animal is likely to be very small. Any violations that are the result of physical trauma to the companion animal are likely to be prosecuted under the cruelty to animal statutes under current law. Any violations that are the result of nonviolent behavior are likely to include violations regarding other prohibitions, such as residential or personal distance requirements or no contact requirements granted to the petitioner. Therefore, this new protection is likely to be used as an added violating condition in protection orders that would otherwise be pursued under current law.

Certain state boards

The bill requires the State Medical Board, the State Board of Psychology, and the Counselor, Social Worker, and Marriage and Family Therapist Board to approve continuing education courses regarding the counseling of individuals who abuse animals. LSC fiscal staff's research suggests that each board would be able to absorb the increased workload within their context of their current business, budget, and staff levels.

State and local probation authorities

The bill requires the court to impose a term of basic probation supervision or a term of intensive probation supervision for any felony violation of the prohibition against committing cruelty to a companion animal. In the matter of supervising adult offenders in the community, dependent upon the location of a given offender, probation services could be provided either by the state's Adult Parole Authority or the

appropriate county probation authority. LSC fiscal staff's research suggests that the number of additional felony offenders that would be subject to either type of supervision term is likely to be relatively small and that any related increase in annual probation supervision costs would not be significant.

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