



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [Sub. S.B. 191 of the 129th G.A.](#)

Date: January 30, 2012

Status: As Reported by Senate Judiciary

Sponsor: Sens. Hughes and Wilson

Local Impact Statement Procedure Required: No

Contents: Sexual bestiality

State Fiscal Highlights

- The departments of Rehabilitation and Correction and Youth Services may experience a minimal annual increase in incarceration or care and custody costs, as, in any given year, a few additional offenders may be sentenced to a state prison or juvenile correctional facility for repeat violations.
- The number of offenders convicted of, or pleading guilty to, violations of the bill's prohibition will be extremely small statewide, which means there would be, at most, a negligible annual gain in locally collected state court costs deposited to the credit of the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0).

Local Fiscal Highlights

- The number of misdemeanor and felony cases that may be affected or created as a result of violating the bill's prohibition will be extremely small statewide, which means that any additional costs for a county or municipal criminal justice system to process those cases and sanction violators would be minimal at most annually. Any additional court costs and fines collected from violators would also be minimal at most annually.

Detailed Fiscal Analysis

The bill creates the offense of knowingly engaging in an act of sexual bestiality, a violation of which is generally a misdemeanor of the first degree, and a felony of the fifth degree if the offender has previously been convicted of engaging in an act of sexual bestiality. Based on our research, including conversations with the Ohio Prosecuting Attorneys Association, we have discerned the following:

- Although not specifically prohibited under existing law, current practice indicates that such conduct has been successfully prosecuted under existing prohibitions against injuring, or cruelty to, animals.
- The bill enhances the penalty for the conduct addressed by the bill generally from a misdemeanor of the second degree to a misdemeanor of the first degree. (The sentences and fines under current Animal Cruelty Law and the bill are summarized in the table on the following page.)
- There will be very few misdemeanor and felony cases affected or generated by violations of the bill's prohibition annually statewide.

State and local expenditures

In any given year, very few persons are likely to be arrested, prosecuted, and sanctioned for violating either the bill's misdemeanor or felony prohibition, most, if not all, of whom would have been successfully prosecuted and sanctioned under current law. Thus, to the degree that violations of the bill's prohibition generate any tangible additional processing and sanctioning costs for a county or municipal criminal justice system, such costs would be minimal at most annually. Those costs could include some mix of investigative work by local law enforcement, prosecution, adjudication, indigent defense, jail time, and probation.

Under the bill, it is also more likely that a repeat offender could receive a term of incarceration in a state facility. In the case of an adult, this would be a state prison under control of the Department of Rehabilitation and Correction; in the case of a juvenile, this would be a correctional facility under the control of the Department of Youth Services. That said, there will be very few additional adult and juvenile offenders sentenced to a state facility in any given year, which means that any resulting increase in incarceration costs would be minimal at most annually.

State and local revenues

In the case of a person convicted of, or pleading guilty to, a misdemeanor or felony, courts (1) are generally required to impose a mix of state and local court costs and fines, and (2) are permitted to waive costs and fines if the offender is determined to be indigent. As the bill's prohibition will largely function as a penalty enhancement, a violation could generate additional court cost and fine revenue for the state, county, and municipal treasuries. However, the likely amounts to be generated annually for

either the state or local treasuries will be negligible and minimal, respectively. This is because (1) many offenders, especially those convicted of a felony, are either financially unable or unwilling to pay, and (2) very few offenders will be arrested, charged, and convicted of violating the bill's prohibition. The state revenues would be in the form of locally collected state court costs¹ that are forwarded for deposit to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Sentences and fines generally

The following table shows the offense level, the maximum fine, and the maximum term of incarceration for animal cruelty offenses under current law and the new offense created by the bill. A person violating the bill's prohibition could face a longer term of incarceration and a higher fine amount than might otherwise have been the case under current law and practice.

Sentences and Fines for Certain Offenses			
Current Law Offenses	Offense Level	Term of Incarceration	Maximum Fine
Injuring animals	Misdemeanor, 2nd degree	Jail, not more than 90 days	Up to \$750
Cruelty to animals	Misdemeanor, 2nd degree	Jail, not more than 90 days	Up to \$750
Companion animal cruelty <i>First violation</i>	Misdemeanor, 1st degree	Jail, not more than 180 days	Up to \$1,000
<i>Subsequent violation</i>	Felony, 5th degree	Prison, 6-12 months definite	Up to \$2,500
The Bill's Offense			
Sexual bestiality <i>First violation</i>	Misdemeanor, 1st degree	Jail, not more than 180 days	Up to \$1,000
<i>Subsequent violation</i>	Felony, 5th degree	Prison, 6-12 months definite	Up to \$2,500

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¹ "State court costs" are statutorily specified amounts collected by local courts and forwarded for deposit in the state treasury. The court is generally required to impose state court costs totaling \$29 for a misdemeanor and \$60 for a felony. The \$29 misdemeanor amount is divided as follows: \$20 to the Indigent Defense Support Fund (Fund 5DYO) and \$9 to the Victims of Crime/Reparations Fund (Fund 4020). The \$60 felony amount is divided as follows: \$30 to Fund 5DYO and \$30 to Fund 4020.