Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL: **Sub. H.B. 437** DATE: **January 5, 1998**

STATUS: **As reported by House Criminal Justice** SPONSOR: **Rep. Tiberi**

LOCAL IMPACT STATEMENT REQUIRED: **No - Minimal Cost**

CONTENTS: **Prohibits specified acts with respect to a companion animal, establishes procedures for the care of impounded animals and enhances penalties for the offense of "dogfighting"**

State Fiscal Highlights

STATE FUND	FY 1998	FY 1999	FUTURE YEARS
General Revenue Fund			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase
Crime Victims Reparation Fund (CVRF)			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	- 0 -	- 0 -	- 0 -

- The bill could result in a potential negligible gain in state revenues related to the collection of court costs in a very small number of newly created felony cases. Court costs in felony cases are $41 and go to the GRF and the CVRF on the basis of $30 and $11 respectively.

- The bill could generate a potential minimal increase in state incarceration expenditures as a result of upgrading a minimal number of offenses from misdemeanors and felonies and increasing by one degree the severity of felony "dogfighting" offenses.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999	FUTURE YEARS
Counties			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase
Municipalities			
Revenues	Potential negligible loss	Potential negligible loss	Potential negligible loss
Expenditures	- 0 -	- 0 -	- 0 -

- By strengthening and enhancing the penalties for the offenses addressed in the bill, counties could experience a potential negligible gain in revenues related to increased collection of local court costs in cases shifted from municipal to common pleas courts and the assessment of larger fines. Furthermore, by

increasing the seriousness of certain offenses, counties could experience a potential minimal increase in prosecution, adjudication, indigent defense, and incarceration expenditures.

- In upgrading the seriousness of a small number of offenses from misdemeanors to felonies, municipalities could experience a potential negligible loss in court cost revenues as a small number of cases are shifted to the common pleas courts.

- By increasing the ability of to recoup the costs of care and treatment of impounded "companion animals" the bill could result in a potential minimal increase to the counties.

Detailed Fiscal Analysis

Provisions of the Bill

The bill would exempt "companion animals" from the provisions of the offense of animal cruelty applying to livestock. The bill defines a "companion animal" as any dog, cat, or other animal kept as a pet or mascot and not used in research, or classified exclusively as livestock or a game species. Furthermore, the bill clarifies that no person shall torture, torment, mutilate, cruelly beat, disfigure, poison, needlessly kill, or commit an act of cruelty upon a "companion animal" and that the owner of a "companion animal" must provide it with food and potable water, ventilation, access to shelter and veterinary care, adequate exercise, sanitary living conditions, adequate space, and is prohibited from abandoning it.

In addition to the above requirements, the bill permits any law enforcement or humane officer to impound a "companion animal" if the officer reasonably believes the animal is the subject of a violation of the above conditions and that such impoundment may continue during the adjudication process. Should an officer fail to impound the "companion animal", the court of jurisdiction may issue an order to the owner of the animal to provide it with the necessities identified above until final disposition. Should a "companion animal" be seized, the impounding agency may file a petition with the court requesting the defendant to post a deposit to cover the costs of care. Reasonable expenses include, but are not limited to, the estimated cost of veterinary care as well as food and board for a period of at least thirty days. If within ten days of the filing of the petition, the impounding agency provides probable cause that the "companion animal" is the subject of the violation, the court shall order the defendant to either deposit an appropriate amount of money with the clerk of the court or forfeit the animal. Any component of the deposit not needed to cover expenses shall be either refunded or applied to the payment of any fines. At any time before or after filing a petition, the impounding agency may euthenize the "companion animal" to prevent suffering.

Whoever violates the provisions related to torture or abandonment of a "companion animal" is guilty of a misdemeanor of the first degree (M-1) on the first offense and a felony of the fourth degree (F-4) for each subsequent offense. Whoever violates the provisions of failing to provide adequate care to a "companion animal" is guilty of an M-2 on the first offense and an M-1 for each subsequent offense. Furthermore, a court may also order the guilty party to forfeit all "companion animals" within their care and prevent the offender from owning or caring for any "companion animal" for a specified period of time. If it is believed that the offender suffers from a mental disorder that contributed to the violation, the court may also impose psychological

evaluation or counseling as a condition of probation. Any fine imposed by the court shall be paid to the impounding agency that participated in the case or if one did not participate, to another impounding agency within the county.

The bill also elevates the offense of "dogfighting" to an F-4, punishable by a fine of up to $5,000 and a period of incarceration of up to 18 months. Currently, "dogfighting" is an F-5, punishable by a fine of up to $2,500 and a period of incarceration of up to 12 months.

Fiscal Impact of the Bill

Collection of Treatment Costs

The ability to recoup the cost of care and treatment from those charged with offenses against "companion animals" could result in an increase in revenues to the counties funding those operations. Currently, counties operating animal control departments absorb the cost of care and treatment identified above. By providing the ability to require payment for these services, the counties could experience an increase in revenues that would be used to offset the cost of care currently provided. While this provision will most likely generate additional revenues, the number of cases affected by the bill is expected to be relatively small. Furthermore, since the degree to which courts will be able to collect payment is unknown, any gain in revenue is likely to be minimal.

Enhancement of Certain Offenses

Since the offenses addressed in the bill in regard to "companion animals" are already treated as M-3's, the primary fiscal impact of the penalty component of the bill is tied to the enhancement of certain offenses. Specifically, under the provisions of the bill certain offenses would be upgraded from M-3 to M-2 or M-1 for a first offense. Subsequent offenses would be upgraded to an M-1 and F-4 respectively. According to a representative of the Humane Society of the United States, there were 445 convictions for neglect and abuse that would fall under the provisions of the bill statewide in 1996. Of these 445 convictions, the Humane Society estimates that a "very small percentage" would fall under the conditions of receiving the enhanced penalties.

Since the majority of cases covered under the bill would continue to be tried as misdemeanors, the net result should be minimal in terms of both revenues and expenditures to state, county, and municipal governments. Specifically, by increasing the seriousness of cases adjudicated and convicted, the state could experience a potential minimal increase in revenues and expenditures related to the collection of additional state court costs as well as the cost of incarceration for the minimal number of felony offenders potentially created by the bill. Counties meanwhile, could experience a potential minimal increase in both revenues and expenditures related to the collection of local court costs as well as the cost of adjudicating more serious felony and misdemeanor cases and the potential longer terms of local incarceration that may follow. Municipalities could experience a potential negligible loss in revenue from local court costs as a result of a small number of current misdemeanor cases being transferred to the county common pleas court. Local court costs vary according to jurisdiction and are retained entirely by the entity operating the court.

Since the number of cases addressed in the component of the bill regarding "dogfighting" is small and those cases are currently tried as felonies, the fiscal impact to state and county

governments should be negligible. Specifically, according to the Humane Society of the United States during the year 1996 two such offenses were prosecuted statewide and that on average, fewer than five cases are experienced annually.

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