# *Fiscal Note & Local Impact Statement*

*127 th General Assembly of Ohio*

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615
✧ *Internet Web Site:* http://www.lsc.state.oh.us/

BILL: **Sub. H.B. 71** DATE: **October 22, 2007**

STATUS: **As Passed by the House** SPONSOR: **Rep. White**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**

CONTENTS: **Provides for the seizure, impoundment, and disposition of roosters involved in cockfighting and dogs involved in dogfighting, revises these requirements as they apply to neglected or abused companion animals, and clarifies that the authority conferred upon a person to kill an attacking dog does not include the authority to kill a police dog**

## *State Fiscal Highlights*

- No direct fiscal effect on the state.

## *Local Fiscal Highlights*

| LOCAL GOVERNMENT | FY 2007 | FY 2008 | FUTURE YEARS |
|---|---|---|---|
| **Counties and Municipalities** | | | |
| Revenues | Potential gain offsetting cost of animal care if more bonds or cash deposits are paid | Potential gain offsetting cost of animal care if more bonds or cash deposits are paid | Potential gain offsetting cost of animal care if more bonds or cash deposits are paid |
| Expenditures | Potential decrease from quicker dispositions | Potential decrease from quicker dispositions | Potential decrease from quicker dispositions |

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

- ***Potential to recoup costs of care*.** Impounding agencies could recoup costs of animal care if more owners decide to post bonds or cash deposits thereby reducing uncompensated care costs. However, this would likely occur only if animal owners were financially able or wanted to pay in an increasing number of cases when faced with the quicker disposition process outlined in the bill.

- ***Potential decrease in expenses from quicker dispositions*.** The bill also provides for a quicker disposition process that could result in some savings for county and municipal animal shelters if owners refuse or do not post bonds or cash deposits. This would reduce costs for food and medical care by shortening the duration of care. Any increase in revenue from posted bonds or cash deposits or any decrease in expenses resulting from quicker dispositions would depend on the number of dogfighting cases that occur in each county or municipality and how long the dogs would be held by animal shelters.

- ***Net effect*.** Overall, the impact of the bill would depend on the combination of costs recouped for the care of animals through bonds or cash deposits and the savings derived from using the quicker disposition mechanism allowed in the bill.

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# *Detailed Fiscal Analysis*

## *Overview*

This bill generally provides for the seizure, impoundment, and disposition of roosters involved in cockfighting and dogs involved in dogfighting and revises these requirements as they apply to neglected or abused companion animals.

## *Current situation*

Current law prescribes various penalties for persons violating prohibitions against dogfighting and cockfighting and also provides for the impoundment of companion animals subjected to cruel treatment and the recouping of costs for caring for such impounded companion animals.[1] Chapter 959. of the Revised Code makes the penalty for dogfighting a fourth degree felony (prison term of 6 to 18 months and maximum fine of $5,000). A first offense for cockfighting violations carries a lesser penalty, a fourth degree misdemeanor (maximum sentence of 30 days and a maximum fine of $250).

Current law also requires peace officers to confiscate any dogs that have been, are, or are intended to be used in dogfighting. In spite of this, according to the Ohio Dog Wardens Association (ODWA), individuals would also have to be charged with a companion animal cruelty charge (under section 959.131 of the Revised Code) in order for the impounding agency to file a motion in court to require the defendant to post bond to cover the costs of caring for the impounded animals if the costs of care are estimated to be more than $1,500. However, ODWA noted that including a cruelty to companion animals charge may allow the court to find the defendant guilty of only a first degree misdemeanor, which is the penalty for companion animal cruelty, rather than the fourth degree felony for dogfighting.

While impounding agencies can seek a deposit or bond to cover the costs of care, the Capital Area Humane Society (CAHS) noted that the current deposit or bonding provision can be applied very broadly by a court. Consequently, impounding agencies generally receive very little funding through the current bonding provision to care for impounded animals. In addition, the Franklin County Sheriff's office reported to LSC that dogfighting and cruelty cases can be lengthy as owners can seek continuances in their cases. Meanwhile, in many cases, the cost of care for the animals is borne by county and municipality animal shelters. These factors can result in significant costs to care for these animals, as identified below.

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[1] "Companion animal" is defined as any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, but does not include livestock or any wild animal.

***Costs and statistics of care***

According to data obtained by LSC through OWDA, 172 dogs were impounded in Franklin County for dogfighting investigations from March 2002 through March 2007. The average holding period for these dogs from impoundment until disposition was approximately 217 days, or over 7 months. At $10 to $15 per day, the average cost to board these dogs at a private kennel was approximately $2,300, not including medication, veterinary care, immunizations, and so on. Approximately 70% of the dogs "with dispositions" were ordered euthanized by the court, approximately 12% were euthanized or died due to medical reasons, and approximately 18% were ordered returned to the owner by the court. According to a recent Columbus *Dispatch* article, the county has spent an estimated $1.2 million for the care and feeding of these dogs.

To get an idea of the costs involved in these cases, LSC learned of the following. In March 2007, a federal investigation that resulted in dogfighting, drug trafficking, and auto theft resulted in 64 dogs being seized and housed at a Montgomery County animal shelter. According to testimony offered on this bill, the costs to Montgomery County have been more than $100,000 so far. A second example comes from the Capital Area Humane Society, which testified that the provision of animal law enforcement services and the sheltering of animals held as evidence cost that organization over $500,000 in calendar year 2006.

***Local fiscal effects***

Under current law, a person can request a hearing with the court in which charges for companion animal cruelty are pending, presumably to regain possession of the companion animal seized. Just as with dogfighting cases, this situation does not occur frequently. As described above, the impounding agency may also file a motion in order to request that an owner post a deposit to cover the costs of care for the animal. At the hearing, the impounding agency has the burden of proving that probable cause exists to find the defendant guilty of the cruelty violation. If probable cause exists, the court can order the impounding agency to retain the seized companion animal or return the animal to the defendant with any necessary conditions or restrictions to ensure that the animal receives humane and adequate treatment.

The bill would change those proceedings to place on the owner increased financial responsibility for the companion or fighting animal.[2] Under the bill, the owner of a seized companion or fighting animal has ten days to request a probable cause hearing to determine whether a companion animal cruelty, dogfighting, or cockfighting violation occurred. If the owner does not request a hearing in the time frame allotted or the hearing determines that probable cause exists to believe that a violation occurred, an impounding agency may arrange for the disposition of the animal. As noted above, most dispositions involve euthanizing the dogs that are involved in dogfighting. In cruelty cases, CAHS noted that humane societies make every effort to put the animals up for adoption.

[2] A fighting animal is defined by the bill as either a rooster or a dog that a peace officer has reasonable cause to believe has been, is, or is intended to be used in either cockfighting or dogfighting, as applicable.

However, as an alternative to such a disposition, the bill allows an owner to post a bond or cash deposit with the court that the court, in consultation with the impounding agency, determines is sufficient to provide for the animal's care and keeping for at least 30 days. These may be renewed for 30-day periods. If not, the animal shelter may determine the disposition of the animal unless the court issues an order specifying otherwise.

If probable cause has not been established concerning whether a violation occurred or if the person is found not guilty of committing an offense, the impounding agency must return the companion or fighting animal to its owner, if possible, and the entire amount of the bond or cash deposit. If the dog cannot be returned, the impounding agency must pay to the owner an amount determined by the court to be equal to the reasonable market value of the companion animal at the time it was impounded plus statutory interest (currently an annual rate of 8% for calendar year 2007) from the date of impoundment. These procedures are similar to those in current law when a defendant has been found not guilty of a cruelty offense.

The bill would appear to have two possible fiscal impacts on county or municipal animal shelters. The bill would (1) allow animal shelters to recoup costs of care if owners decide to post bonds or cash deposits for the cost of care month by month, thus reducing uncompensated care costs. However, this would likely occur only if animal owners were financially able or wanted to pay in an increasing number of cases when they were faced with quick dispositions. The bill could also (2) result in some savings for county and municipal animal shelters if owners refuse or are financially unable to post bonds or cash deposits by allowing dispositions of the animal to occur more quickly, which would reduce costs for food and medical care by shortening the duration of care. Overall, the impact of the bill would depend on the combination of costs recouped for the care of animals through bonds or cash deposits and the savings derived from using the quicker disposition mechanism allowed in the bill.

*LSC fiscal staff: Jason Phillips, Budget Analyst*
*Terry Steele, Budget Analyst*

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