



# Ohio Legislative Service Commission

Matthew L. Stiffler

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## Fiscal Note & Local Impact Statement

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**Bill:** [Am. H.B. 55 of the 128th G.A.](#)

**Date:** November 30, 2010

**Status:** As Passed by the House

**Sponsor:** Reps. B. Williams and Combs

**Local Impact Statement Procedure Required:** No — Minimal cost in the "As Introduced" version

**Contents:** Animal protection and vicious dog law changes

### State Fiscal Highlights

- The bill will generate some additional ongoing work at minimal annual cost for several state agencies, in particular the Department of Rehabilitation and Correction's Adult Parole Authority (APA) to supervise probationers, and the State Board of Psychology, the State Medical Board, and the Counselor, Social Worker, and Marriage and Family Therapist Board to approve continuing education courses.

### Local Fiscal Highlights

- The bill will trigger two contrasting local revenue and expenditure effects, the net of which for any affected county or municipality annually is uncertain. The first effect will come from enhancing the prohibition against cruelty to animals, which may increase the costs that counties and municipalities incur in processing animal cruelty cases and generate additional related annual court cost and fine revenues. The second and contrasting effect will come from removing pit bulls from the definition of vicious dog, which may decrease the cases and costs that counties and municipalities incur in processing vicious dog-related criminal charges and decrease related court cost and fine revenues that might otherwise have been collected.

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## Detailed Fiscal Analysis

### Overview

The fiscal analysis below is organized by the bill's changes to existing law as it relates to: (1) enhancing the prohibition against cruelty to animals, and (2) removing pit bulls from the definition of vicious dog.

### (I) Cruelty to animal prohibition

#### County revenues

LSC estimates the amount of fine revenue generated annually as a result of the bill's animal cruelty penalty enhancement will not exceed minimal. 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. According to data provided by the Department of Public Safety's Office of Criminal Justice Services, the number of cruelty to animal and cruelty to companion animal charges filed annually is approximately 400 statewide.

Under current law, a violation of the offense of cruelty to a companion animal is a misdemeanor of the second degree. 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. 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.

#### County and municipal jails

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. The number of situations in which this scenario might actually occur appears likely to be relatively few, which suggests that any subsequent increase in a jail's annual operating expenses is likely to be minimal. The maximum jail stay for misdemeanors of the first and second degree is six months and 90 days, respectively. The average daily cost of a bed in a full-service local jail is less than \$100.

#### Courts of common pleas

The bill's requirement that juveniles undergo evaluation and possible counseling will not generate significant additional costs for courts of common pleas because the number of affected juveniles will be relatively small and evaluation and counseling mechanisms are already available.

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. Data provided LSC by the Office 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.

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.

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.

### **Protection orders**

For the reasons further explored immediately below, the bill's expansion of protection orders will not significantly affect the operations of municipal, county, and common pleas courts and their related annual operating expenses.

Records of the state's Law Enforcement Automated Data System (LEADS) indicate that there are approximately 35,000 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 Humane 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 the 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. 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. 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.

## **(II) Vicious dog definition**

The bill's removal of pit bulls from the definition of vicious dog will reduce the number or seriousness of vicious dog-related charges, and as a result, case processing and sanctioning costs incurred by county and municipal criminal justice systems would decrease and court cost and fine revenue collections would drop. The annual magnitude of these expenditure decreases and revenue losses is uncertain and would presumably be more significant in local jurisdictions where a relatively large number of charges for violating animal laws are filed. Franklin County would be such a jurisdiction as its Dog Warden, reports that in, FY 2009, 438 owners of pit bull dogs

were charged with failure to properly confine or restrain a vicious dog (depending upon the circumstances a first degree misdemeanor or a fourth degree felony) and 626 owners of pit bull dogs were charged with failure to insure a vicious dog (a first degree misdemeanor).

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