



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [Sub. H.B. 70 of the 128th G.A.](#)

Date: March 5, 2010

Status: As Passed by the House

Sponsor: Reps. Gerberry and Hagan

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Increases certain penalties for cruelty against a companion animal

State Fiscal Highlights

- The bill gives prosecutors the discretion to charge a registered kennel owner who inflicts cruelty on a companion animal with either a misdemeanor or a felony. If there are convictions under this stiffer penalty, it could increase the amounts deposited into the Victims of Crime/Reparations Fund (Fund 4020).
- Because there are few such cases reported and prosecuted annually, any gain in revenue to Fund 4020 would be negligible.

Local Fiscal Highlights

- Since companion animal cruelty violations could be prosecuted as felonies under the bill, these cases would be handled by county common pleas courts. As a result, there could be some additional county common pleas court costs for adjudicating these cases, offset by some small amount of new fine revenues.
- If these cases were treated as felonies, there could be some loss in fine revenues for municipal courts as well as a decrease in costs for adjudicating such cases.
- There were 95 reported cases of guardian or custodian-caused cases of animal abuse in calendar year 2007 and 66 such cases in calendar year 2008, not all of which were prosecuted.

Detailed Fiscal Analysis

Overview

The bill specifically prohibits an owner of a registered kennel of dogs that confines or is the custodian or caretaker of a companion animal from negligently committing specified types of cruel treatment of a companion animal and makes a violation of this law a fifth degree felony. However, in prosecuting these cases, the bill grants a prosecutor the discretion to charge the owner of a kennel of dogs who violates this prohibition either as a misdemeanor violation under the Companion Animal Cruelty Law or as a felony violation under the new prohibition governing dog kennel owners. According to the Humane Society of the United States, there were 95 reported cases of animal abuse in Ohio in calendar year 2007 and 66 reported cases in calendar year 2008.

State fiscal effects

By giving prosecutors the discretion to charge violators either (1) under the existing misdemeanor penalty, which escalates from a second degree misdemeanor on a first offense to a second degree misdemeanor on subsequent offenses, or (2) the fifth degree felony under the bill, it is possible that a person who would not be sentenced to a prison term under current law could be if convicted under the stiffer penalty. Nevertheless, in all likelihood few offenders would be sentenced to prison as a result of the felony conviction. Any resulting increase in the Department of Rehabilitation and Correction's GRF-funded incarceration costs would thus be negligible.

The bill could also lead to some change in the amount of court costs received by the state. State court costs for a misdemeanor conviction total \$24, of which \$9 is credited to Fund 4020 and \$15 is credited to the GRF. In contrast, state court costs for a felony conviction total \$45. Of that amount, \$30 is credited to the Victims of Crime/Reparations Fund (Fund 4020), and the remaining \$15 is credited to the GRF. Thus, under a felony conviction, the Victims of Crime/Reparations Fund collects an additional \$21 compared to its potential take under a misdemeanor conviction. Any effect on Fund 4020 would depend on the number of convictions obtained under the felony charge in the bill.

Local fiscal effects

As mentioned previously, the bill gives prosecutors discretion to pursue existing statutory misdemeanor charges or pursue a felony charge against an owner of a dog kennel. This could potentially elevate a criminal case that under current law would probably be adjudicated as a misdemeanor in municipal court or county court to a felony case under the purview of a court of common pleas. Felony cases are more expensive to handle than misdemeanors. Thus, the bill could increase county criminal justice system costs for investigating, prosecuting, adjudicating, and, in some cases,

providing indigent defense while decreasing costs for the municipal criminal justice system. Likewise, the bill could also generate additional court cost and fine revenues for counties, while causing a loss in court cost and fine revenues collected by municipal courts. Regardless, there are likely to be few new cases prosecuted under the felony created by the bill.

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