



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** Sub. H.B. 70 of the 128th G.A.

**Date:** November 30, 2009

**Status:** As Reported by House Criminal Justice

**Sponsor:** Reps. Gerberry and Hagan

**Local Impact Statement Procedure Required:** No — Minimal cost

**Contents:** Makes a custodian's, caretaker's, or kennel owner's cruelty against a companion animal a fifth degree felony

### State Fiscal Highlights

- Enhancing the penalty for a custodian's caretaker's, or kennel owner's act of cruelty against a companion animal would increase the fines an offender is required to pay. This in turn would increase fine revenues deposited in the GRF and the Victims of Crime/Reparations Fund (Fund 4020). Because there are few such cases reported annually, the gain in revenue would be negligible.

### Local Fiscal Highlights

#### LOCAL GOVERNMENT

#### FY 2010 – FUTURE YEARS

##### County Common Pleas Courts

Revenues

Potential minimal gain in fine revenues

Expenditures

Potential minimal increase in court costs

##### Municipal Courts

Revenues

Potential minimal loss in fine revenues

Expenditures

Potential minimal decrease in court costs

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

- Since companion animal cruelty violations would be 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.
- Concurrently, there could be some loss in fine revenues for municipal courts as well as a decrease in costs for adjudicating such cases.
- These cases are rare. There were 66 reported cases of guardian or custodian-caused companion animal abuse committed in Ohio in calendar year 2008, not all of which were prosecuted.

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## Detailed Fiscal Analysis

### Overview

Current law specifies that a violation of the prohibition against cruel treatment of a companion animal by the animal's custodian or caretaker or the prohibition against an owner or keeper of a dog, cat, or other domestic animal from abandoning the animal is a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense. The bill increases the penalty to a fifth degree felony on a first offense and each subsequent offense, and includes kennel owners in the statute.

Generally, a first degree misdemeanor carries a sentence of not more than six months in prison with a fine of up to \$1,000. A fifth degree felony carries a sentence of up to 12 months in prison with a fine of up to \$2,500. The overall number of these cases fluctuates from year to year. 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. Not all of these reported instances resulted in criminal charges.

### State fiscal effects

By increasing the penalty from a misdemeanor to a felony, it is possible that a person who would not be sentenced to a prison term under current law could be under the stiffer penalty. Nevertheless, in all likelihood few offenders would be sentenced to prison as a result of the enhanced penalty. Any resulting increase in the Department of Rehabilitation and Correction's GRF-funded incarceration costs would be negligible.

In addition to any local fines and court costs, offenders can be ordered to pay locally collected state court costs. 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. State court costs for a misdemeanor conviction total \$24, of which \$9 is credited to Fund 4020 and \$15 is credited to the GRF. The GRF thus gains \$15 under a misdemeanor or felony conviction. However, under a felony conviction, the Victims of Crime/Reparations Fund collects an additional \$21 compared to its potential take from a misdemeanor. Overall, since there would likely be few new convictions under this new felony violation, any additional revenue to Fund 4020 would be negligible.

### Local fiscal effects

The bill's penalty enhancement 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

defending (if the offender is indigent) certain offenders, 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. Overall, there are likely to be few new cases prosecuted under the felony created by the bill.

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