



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 22 of the 129th G.A.

**Date:** February 8, 2011

**Status:** As Introduced

**Sponsor:** Rep. Bupp

**Local Impact Statement Procedure Required:** No

**Contents:** Animal owners' liability

### State Fiscal Highlights

#### STATE FUND

#### FY 2011 – FUTURE YEARS

##### Indigent Defense Support Fund (Fund 5DY0)

Revenues	Potential negligible annual loss in locally collected state court costs
Expenditures	- 0 -

##### Victims of Crime/Reparations Fund (Fund 4020)

Revenues	Potential negligible annual loss in locally collected state court costs
Expenditures	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The bill could result in a negligible annual decrease in revenues for the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020) as a result of the bill's introduction of a "recklessness" standard to the burden of proof. This elevated standard may mean that fewer persons are prosecuted and convicted of animal at large charges and subsequently required by the court to pay locally collected state court costs.

# Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2011 – FUTURE YEARS

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## Counties and Municipalities

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Revenues

Potential minimal annual loss

Expenditures

Factors increasing and decreasing costs, with net minimal annual effect

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

- **Revenues.** The bill's "recklessness" standard will likely result in some reduction in the number of persons being prosecuted and convicted of "animal at large" charges, resulting in some counties and municipalities losing, at most, a minimal amount in court cost and fine revenues annually.
- **Criminal cases.** If, in certain local jurisdictions, fewer persons are charged for having animals at large, then the affected county or municipal criminal justice system presumably saves the costs that might otherwise have been expended to prosecute, adjudicate, and sanction that person. Given the relatively small number of these cases statewide, any savings is likely to be no more than minimal annually.
- **Civil cases.** The bill's requirement that a person be "negligent" in order to be liable for damages caused by an animal at large could cause a mix of effects on local trial courts, including: (1) it may make it less likely for a potential plaintiff to file a civil action, or (2) it may require the court expend additional time and effort to determine if the defendant was negligent. The net fiscal effect on the county and municipal courts with jurisdiction over these civil matters will be minimal annually.

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## Detailed Fiscal Analysis

The bill: (1) expands owner liability for animals running at large to include llamas, alpacas, and bison, (2) states that recklessness is the required culpable mental state for a person to have violated the criminal prohibition against having animals at large, and (3) requires, in order to be liable for damages, the owner or keeper of any of the specified animals to have acted negligently.

Under current law, an owner or keeper of horses, mules, cattle, sheep, goats, swine, or geese can be held both criminally and civilly responsible for permitting an animal to run at large, with the mere running at large being prima facie evidence that a violation of the prohibition has occurred. A violation of the criminal prohibition, unchanged by the bill, is a misdemeanor of the fourth degree.

### **Criminal charge for animals running at large**

The bill's changes to the circumstances that constitute a criminal violation of the prohibition against having certain animals at large may minimally reduce county and municipal criminal justice system expenditures and related local court costs and fines that might otherwise have been collected. There would also be a negligible annual loss in locally collected state court costs. These expenditure savings and revenue losses will result from the likelihood that fewer persons would be charged with or subsequently convicted of such a violation under the bill's "recklessness" standards.

Under current law, according to data maintained by the state's Office of Criminal Justice Services, 35 incidents involving an animal running at large have been reported between 2008 and 2010. This suggests that relatively few persons are currently being charged and convicted of an animal running at large violation statewide, and that the number of charges processed by any given county and municipal criminal justice system is likely to be extremely small. A person found to have violated the criminal prohibition against having an animal running at large could be sentenced to a stay in jail of up to 30 days and required to pay state and local court costs and a local fine of up to \$250. In these types of cases, the most likely sanction imposed by the court would be a fine and a waiving of any jail time, as: (1) the offense is nonviolent, and (2) many local jails are at or above their design capacity.

State court costs are statutorily specified amounts collected by local courts and forwarded for deposit in the state treasury. For a misdemeanor, the court is generally required to impose state court costs totaling \$29 for a misdemeanor. That \$29 amount is forwarded to the state treasury and credited as follows: \$20 to the Indigent Defense Support Fund (Fund 5DYO) and \$9 to the Victims of Crime/Reparations Fund (Fund 4020).

## **Civil liability for damages**

The bill's requirement that a person be found to have acted negligently before being held liable for damages may have a minimal annual fiscal effect on local courts with jurisdiction over such matters. It may produce offsetting effects on any given court by: (1) reducing the number of civil actions filed if certain plaintiffs believe it may be difficult to prove the defendant was negligent, and (2) increasing the time and effort that a court must expend in order to determine if the defendant was negligent. From the court's perspective, the former saves time and money while the later costs time and money. The net effect for any given court, either an annual expenditure increase or decrease, is not expected to exceed minimal. Depending upon the place and amount of the damages, these civil matters would be adjudicated either by a common pleas, municipal, or county court.

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