



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 25 of the 129th G.A.

Date: February 22, 2011

Status: In House Criminal Justice

Sponsor: Rep. Combs

Local Impact Statement Procedure Required: No

Contents: Animal protection

State Fiscal Highlights

- **Certain state agencies.** The bill will generate a less than minimal increase in operating costs for several state agencies, including the Department of Rehabilitation and Correction's Adult Parole Authority (APA), the State Board of Psychology, the State Medical Board, and the Counselor, Social Worker, and Marriage and Family Therapist Board.

Local Fiscal Highlights

- **Cruelty to animal revenues.** Fine moneys collected for animal cruelty violations are distributed by the clerk of court to the association for the prevention of cruelty to animals where the violation occurred. The additional fine revenue generated by the bill's penalty enhancement will be less than minimal annually.
- **County and municipal expenditures.** The bill contains numerous provisions that will less than minimally increase the operating costs of various components of county and municipal criminal, juvenile, and/or civil justice systems to process.

Detailed Fiscal Analysis

Overview

The bill revises the penalties and sentencing provisions for offenses involving cruelty to animals, and permits the court to include a companion animal in some types of protection orders.

County revenues

The additional fine revenue generated from the penalty enhancement will be less than minimal annually. The number of cruelty to animal and cruelty to companion animal charges filed annually is a few hundred statewide. Under current law, a violation of the offense of cruelty to a companion animal is a misdemeanor of the second degree (M2). The bill makes no change to the offense's penalty for a first violation. The penalty for a second or subsequent violation is increased to a misdemeanor of the first degree (M1). The maximum fine for misdemeanors of the first and second degree is \$1,000 and \$750, respectively. The clerk of courts distributes fine moneys collected to the association for the prevention of cruelty to animals where the violation occurred.

County and municipal jails

The maximum jail stay for misdemeanors of the first and second degree is six months and 90 days, respectively. Thus, 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 or available for housing other offenders. The number of situations in which this scenario might actually occur is likely to be relatively rare suggesting that any subsequent increase in a jail's annual operating expenses is likely to be less than minimal.

Courts of common pleas

The court of common pleas hears all matters of law regarding juveniles. 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 suffering from a mental or emotional disorder. 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 to order the child to undergo psychological evaluation, and, if appropriate, to undergo counseling.

Funding for psychological counseling can be provided 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 children's 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.

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.

Protection orders

The bill requires that the companion animal protections be automatically given, so additional hearings specifically related to this issue will not need to be held by the court. 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 condition of violation pertaining to 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. Each board is expected to be able to absorb the increased workload within their 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. In the matter of supervising adult

offenders in the community, dependent upon the location of a given offender, probation services could be provided by the state's Adult Parole Authority or the appropriate county probation authority. The number of additional felony offenders that would be subject to either type of supervision term is relatively small and any related increase in annual probation supervision costs is less than minimal.

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