



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [H.B. 108 of the 129th G.A.](#)

**Date:** April 6, 2011

**Status:** As Introduced

**Sponsor:** Reps. Gerberry and R. Hagan

**Local Impact Statement Procedure Required:** No

**Contents:** Creates a fifth degree felony penalty that can apply to kennel owners who commit cruelty against companion animals in their care

### Local Fiscal Highlights

- The bill specifically prohibits a registered dog kennel owner from negligently committing specified types of cruel treatment of a companion animal and grants a prosecutor the authority to prosecute violators under a second degree misdemeanor in the Companion Animal Cruelty Law or a new fifth degree felony created by the bill.
- Depending on the prosecutor's decision, some cases will continue to be handled as misdemeanors in municipal court, while other cases could be handled as felonies under common pleas courts. As a result, there could be a shift in court costs and revenues from municipal courts to county common pleas courts.
- According to a database maintained by a pet advocacy organization, there were 23 reported cases of animal abuse in Ohio in calendar year 2009 and 30 such cases in 2010.

### State Fiscal Highlights

- Enhancing the penalty from a second degree misdemeanor to a fifth degree felony for a custodian's or caretaker's act of cruelty against a companion animal will increase the fines an offender is required to pay in court costs and fines. This in turn could increase fine revenues deposited in the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

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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 specifically applies this offense to registered kennel owners and allows prosecutors to pursue either second degree misdemeanor charges or fifth degree felony charges against kennel owners that violate the prohibition. Generally, a first degree misdemeanor can carry a sentence of up to six months in prison with a fine of up to \$1,000, whereas a fifth degree felony carries a sentence of up to 12 months in prison with a fine of up to \$2,500. According to the pet-abuse.com animal cruelty database, there were 23 reported cases of animal abuse in Ohio in calendar year 2009, and 30 in 2010. Not all of these reported instances resulted in criminal charges.

### Local fiscal effects

The penalty enhancement could potentially elevate a criminal case that under current law would most likely be adjudicated as a misdemeanor in municipal court or county court to a felony case under the purview of a court of common pleas. As a rule, 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 these same 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. Assuming that the animal cruelty penalty in this bill is rarely prosecuted, any related variations in annual county and municipal criminal justice system expenditures and revenues are likely to be no more than minimal.

As under current law, any individual who is convicted of or pleads guilty to the new fifth degree penalty and who suffers from a mental or emotional disorder that the court deems contributed to the violation, may be ordered to undergo psychological evaluation or counseling as a community control sanction or as a condition of probation. If so, the offender would be required to pay for the cost of the evaluation or counseling. Courts can also order that offenders surrender animals under their ownership or care to an impounding agency and pay for these costs.

## **State fiscal effects**

The bill gives prosecutors the discretion in certain cases to use penalties established in current law, or the enhanced penalties provided in the bill. 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. Because these violations are extremely rare, in all likelihood few offenders, if any, 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. An additional offender or two occasionally sentenced to prison would have no noticeable fiscal effects on Ohio's prison population which currently exceeds 50,000 inmates.

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 \$60. Of that amount, \$30 is credited to both the Indigent Defense Support Fund (Fund 5DY0) and to the Victims of Crime/Reparations Fund (Fund 4020). State court costs for a misdemeanor conviction total \$29, of which \$20 is credited to Fund 5DY0 and \$9 is credited to Fund 4020. Overall, since there would likely be few new convictions under this new felony violation, any additional revenue to Funds 5DY0 and 4020 would likely be negligible.