



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 60 of the 131st G.A. **Date:** May 25, 2016  
**Status:** As Reported by Senate Agriculture **Sponsor:** Reps. Patmon and Hall

**Local Impact Statement Procedure Required:** No

**Contents:** Establishes a new prohibition against causing serious physical harm to a companion animal and makes other changes

### State and Local Fiscal Highlights

- Establishing the penalty for causing serious physical harm to a companion animal as a fifth degree felony may result in a minimal increase in fine revenue collected by county common pleas and municipal courts. Fifth degree felonies are punishable by fines of up to \$2,500. Continuing law requires that the fines be forwarded either to county humane societies or to the state or local law enforcement agency primarily responsible for handling these cases.
- The new penalty under the bill may also result in a minimal increase in costs for county sheriffs and the Department of Rehabilitation and Correction if there is an increase in the number of people sentenced to jail or prison. Fifth degree felonies are punishable by between six months and one year in prison.
- Overall, cases dealing with animal cruelty account for only a small proportion of law enforcement workloads and court dockets statewide. The new penalty in the bill is unlikely to add substantially to these caseloads.
- The bill requires that the Attorney General, Veterinary Medical Licensing Board, State Board of Pharmacy, and Ohio Veterinary Medical Association collaborate in developing ways that help veterinarians identify individuals who may be using animals to improperly secure opioids. As a result, the two boards and the Attorney General might incur some small costs for developing these resources.
- The bill requires the imposition of a prison term and fine for a person found guilty of assaulting a police dog or horse that results in the animal's death. A small number of additional offenders could be sentenced to prison, or sentenced for a longer term than otherwise might have been the case under current law and sentencing practices. The Department of Rehabilitation and Correction's (DRC) marginal cost of adding a relatively small number of offenders to the prison system runs between \$3,000 and \$4,000 per offender per year.

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## Detailed Fiscal Analysis

Under current law, any person who confines or who is the custodian or caretaker of a companion animal that negligently causes the animal unnecessary pain or suffering or who deprives the animal of adequate food, water, and shelter is guilty of a second degree misdemeanor for a first offense, and a first degree misdemeanor for subsequent offenses. If the person is the owner, manager, or employee of a dog kennel, a first degree misdemeanor applies with the first offense. The bill adds torturing, tormenting, or committing an act of animal cruelty to the prohibited acts and establishes a new prohibition against causing serious physical harm to a companion animal. Serious physical harm as defined by the bill includes (1) physical harm that carries a substantial risk of death, (2) physical harm that involves either partial or total permanent incapacity, (3) physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain, and (4) physical harm that results from depriving a companion animal of good, wholesome food and water that proximately causes the death of the animal. Under the bill, a person who causes serious physical harm to a companion animal is guilty of a felony of the fifth degree.

Overall, the changes made by the bill could cause individuals who would otherwise be charged with various misdemeanor crimes against companion animals to be charged with a felony under specific circumstances. In any event, cases related to various acts of animal cruelty make up only a small proportion of the overall criminal caseload handled by law enforcement agencies and courts statewide. In addition to the new penalty for certain acts of animal cruelty, the bill prohibits a humane society from employing an attorney or assistant attorneys to prosecute felony violations of law relating to cruelty to animals or children, and requires the Attorney General, the Veterinary Medical Licensing Board, and the Board of Pharmacy, along with the Ohio Veterinary Medical Association, to collaborate in preventing opioid abusers from using animals to secure opioids. The potential fiscal effects of the bill are described in more detail below.

### **Penalty for causing serious physical harm to a companion animal**

Establishing a new prohibition for causing serious physical harm to a companion animal may result in a gain in fine revenue collected by county common pleas and municipal courts. Fifth degree felonies are punishable with fines of up to \$2,500. Continuing law requires fines collected under the statute dealing with offenses against domestic animals to be forwarded either to the county humane society to provide training for humane agents, or the state or local law enforcement agency primarily responsible for investigating and prosecuting the case. The new penalty may also result in increased costs for county sheriffs or the Department of Rehabilitation and Correction if a conviction results in jail or prison time for the offender. Fifth degree

felonies are punishable with between six months and one year in prison. Any revenue gains or increased costs would depend on the number of convictions under the bill.

While no statewide tabulation of annual animal cruelty convictions is readily available, we can estimate that number to be fewer than 400 per year based on court records from Franklin County. The Franklin County Municipal Court Annual Report provides the number of animal cruelty charges filed countywide each year. According to this source, between 2010 and 2014 the average number of charges filed annually in Franklin County for animal cruelty violations under the Revised Code was about 40. With roughly 10% of the state's population, if the rate of animal cruelty charges in Franklin County holds across all Ohio counties, then we could estimate the number of such charges filed annually to be approximately 400 statewide. However, the number of cases involving acts that result in the death of companion animals, and the number of subsequent convictions, would be considerably lower.

### **Humane societies – Violations of the law relating to cruelty to animals or children**

Under current law, humane societies may employ an attorney or assistant attorneys to prosecute violations of the law relating to cruelty to animals or children, abandonment, nonsupport, or ill-treatment of a child by its parent, or employment of a child under 14 years of age in public exhibitions or vocations injurious to health, life, or morals or which cause or permit a child to suffer unnecessary physical or mental pain. The bill limits the authority of humane societies to employ attorneys to prosecute these violations only in cases involving misdemeanor offenses.

Under this provision, prosecution of felony violations would be the responsibility of the county prosecuting attorney or the city prosecutor having jurisdiction over the location where the felony violation occurred. This potentially increases the number of cases handled by county and municipal prosecutors and could result in new costs for those offices. Any new costs however, would likely be insignificant due to the small number of cases involving animal cruelty and because county and municipal prosecutors generally oversee cases involving children already.

### **Preventing opioid abusers from using animals to improperly secure opioids**

The bill requires that the Attorney General, the State Veterinary Medical Licensing Board, the State Board of Pharmacy, and the Ohio Veterinary Medical Association collaborate in developing resources and educational materials useful in assisting veterinarians identify clients who may use animals to improperly secure opioids for abuse. This could result in some new costs for the collaborating parties. Any costs that the two boards or the Attorney General might incur would depend on the role of each in developing these resources or educational materials. However, it is unlikely that any such costs would be more than minimal.

## **Assault resulting in the death of a police dog or horse**

Under current law, a person convicted of assaulting a police dog or horse that results in the death of the animal is guilty of a felony in the third degree and subject to the imposition of a fine of up to \$10,000, a prison term of 1 to 5 years, or both as determined by the sentencing authority. The bill specifically requires that both a fine and prison term be imposed. Under the bill, it is possible that some offenders who would have been convicted under the current penalties will be more seriously sanctioned. However, the bill will not create new cases for county criminal justice systems to process or adjudicate as the circumstance addressed is already felonious conduct.

As result of the bill's elevated penalty, violations of the prohibition could result in an extremely small number of additional offenders being sentenced to prison, or sentenced for a longer term than otherwise might have been the case under current law and sentencing practices. The marginal cost of adding a relatively small number of offenders to the prison system runs between \$3,000 and \$4,000 per offender per year.

The bill requires fines to be paid to the law enforcement agency that was served by the police dog or horse and used only for (1) paying costs to replace the animal, (2) paying the costs of training the replacement animal to qualify as a police dog or horse, or (3) in the event that the animal was not owned by the agency, payment to the owner of the animal and the cost of the animal's training that had not already been paid by the agency.