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H.B. 24
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsor: Rep. Hambley

Local Impact Statement Procedure Required: No

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Highlights

- Subjecting humane society officers to provisions of the bribery law, a third degree felony, could lead to some new cases in county courts of common pleas. However, the number of such cases and the costs involved would probably be small.
- The bill increases the minimum monthly salary of a humane agent paid by a political subdivision in the following manner: (1) when a village approves the agent, from \$5 to \$25, (2) when a city approves the agent, from \$20 to \$125, and (3) when a county approves the agent, from \$25 to \$150. The fiscal effect of this change is probably minimal, as in most cases humane agents are being paid more than these monthly minimums.
- The bill provides counties with funding flexibility to pay for humane society agents or attorneys retained to prosecute animal cruelty cases by allowing these costs to be paid from either the general fund or the county dog and kennel fund.
- The bill removes the requirement that county dog wardens first donate impounded dogs to nonprofit agencies that train service dogs and instead allows dog wardens to let individuals adopt those dogs, and to charge an adoption fee. This could presumably increase adoption revenues to county dog wardens.
- The bill explicitly allows county dog wardens to receive a limited license to perform animal euthanasia in the same fashion as animal shelters. The Category III limited license issued by the State Board of Pharmacy is \$220 and renewed biennially.
- The bill modifies the list of drugs used in animal euthanasia and requires further rulemaking by both the State Veterinary Medical Board and State Board of Pharmacy, both of which may experience some minimal rulemaking costs.

- The annual costs for county and municipal criminal justice systems under the jurisdiction of the Sixth District Court of Appeals (Erie, Fulton, Huron, Lucas, Ottawa, Sandusky, Williams, and Wood counties) to enforce the bill's Domestic Animal Law provisions, already in effect in the remainder of the state, will be no more than minimal annually. The related revenue generated in the form of fines and court costs and fees may offset those costs to some degree.

Detailed Analysis

The bill touches on several areas. These include (1) changes to the Humane Society Law and the appointment of and work performed by humane agents, (2) the ability of county dog wardens to adopt out dogs and generate revenue from those adoption fees, (3) changes to euthanasia standards and chemical capture protocols overseen by the State Board of Pharmacy and the State Veterinary Medical Licensing Board, and (4) modifications to the state's bestiality and animal cruelty laws. The fiscal effects of these provisions are described below.

Bribery law

The bill subjects humane society agents to provisions of bribery law. Bribery is a third degree felony, which includes a prison sentence between nine and 36 months and a fine of up to \$10,000. It would appear any such cases related to this provision would be rare. However, if such cases were to arise, there would be costs to the responsible county court of common pleas. These court costs would be partially offset through any applicable court fines and penalties recovered. In the case of felonies, a court assesses related costs of \$60, of which \$30 is deposited into the Indigent Defense Support Fund (Fund 5DY0) and \$30 into the Victims of Crime/Reparations Fund (Fund 4020). As stated above, because such cases would appear to be rare, any additional costs, and corresponding court fine and penalty revenue, would appear to be minimal.

Appointment and pay of attorneys

The bill provides some flexibility in the way humane societies retain attorneys to prosecute certain violations of the animal cruelty law, except certain felony violations related to companion animals. Specifically, the bill allows for these attorneys to be appointed rather than employed. The bill also allows for flexibility in the way these costs are covered by allowing these attorneys to be paid from the county general fund or the dog and kennel fund. Altogether, these provisions do not appear to have any substantial impact on the amount that would be paid to these attorneys for humane societies that choose to appoint them.

Humane society agent pay

The bill increases the minimum monthly salary of a humane agent in the following manner: (1) when a village approves the agent, from \$5 to \$25, (2) when a city approves the agent, from \$20 to \$125, and (3) when a county approves the agent, from \$25 to \$150. Additionally, the bill increases the minimum salary amount by \$5 on January 1, 2019, and each fifth year thereafter. The bill also allows a county to pay these costs from the dog and kennel fund, in addition to the county general fund, as allowed under current law. This change would allow for greater flexibility in terms of the funding source counties use to pay for the services of humane agents.

Complaints regarding humane officer training

The bill requires that a complaint that a humane agent has not successfully completed the required training or has provided false or misleading information about that training be investigated. If this complaint is found to be true, the appointing authority (typically a probate judge for counties and city councils for cities) must rescind the approval of the appointment and order the applicable humane society to revoke the appointment. It is possible that counties or municipalities might incur some additional administrative costs for carrying out these investigations.

Removal from office

The bill permits the probate judge of a county in which a humane agent operates to revoke the approval of an appointment for just cause under the procedure established in the bill. The removal procedures in the bill may increase some costs to probate courts if any such hearings should be held. However, the number of such hearings would probably be infrequent, and any additional costs would be absorbed as part of the daily operating costs of the court.

Reports as public records

The bill requires each county humane society to annually submit enforcement activity reports to the county sheriff. The bill also specifies these reports are public records. In this case, there could be some small cost for sheriffs to comply with requests to furnish this information.

Animal adoptions

The bill would appear to allow county dog wardens to generate additional revenue from animal adoptions. The bill removes a provision that requires that a dog pound first donate an impounded dog to a nonprofit agency that trains assistance dogs. The bill instead allows a dog warden to adopt out an impounded dog to an individual and charge an adoption fee.

Euthanasia and chemical capture provisions

The bill contains several provisions related to the euthanasia and chemical capture of dogs. These provisions may result in some minimal cost increases to certain state licensing boards and political subdivisions.

Euthanasia authority

The provisions related to euthanasia in the bill do not appear to have a significant fiscal impact to political subdivisions. Euthanasia licensure costs may be partially offset through a potential reduction in operating costs. The bill explicitly grants authority to a dog warden to receive a limited license to perform animal euthanasia in the same manner as animal shelters. In order to obtain this license, a dog warden must apply to the State Board of Pharmacy and must also complete a euthanasia technician certification course. The terminal distributor license fee for dog wardens under the bill would be \$220 for a Category III limited license. The bill also allows an agent or employee of an animal shelter or a dog warden to administer per-euthanasia drugs, provided those individuals have completed a euthanasia technician certification course.

Chemical capture

The bill permits the State Board of Pharmacy to issue a chemical capture classification to the animal euthanasia limited license. The bill further permits an animal shelter or county dog warden's office that has received this license classification to capture and immobilize animals with dangerous drugs, provided those individuals have completed the requisite training or approved chemical capture courses as approved by the State Veterinary Medical Board. It is unclear as to how many animal shelters or dog wardens would elect to obtain this particular classification.

The bill establishes a first degree misdemeanor penalty for violating any one of the three chemical capture prohibitions of the bill. These prohibitions are: (1) performing chemical capture with a combination of drugs other than those approved by rule, (2) an animal shelter or dog warden without the proper classification performing chemical capture, or (3) the individual performing chemical capture is not a certified officer. It would appear that such violations under the bill would be infrequent. A first degree misdemeanor carries a jail term of not more than 180 days and a maximum fine of \$1,000, or both.

In the case of a person convicted of, or pleading guilty to, a misdemeanor, the court generally is authorized to impose a mix of state and local court costs, fees, and fines, and permitted to waive their imposition if the offender is determined to be indigent. The likely amounts to be generated annually for either the state, counties, or municipalities will be negligible. This is because many offenders are either financially unable or unwilling to pay, and very few offenders will be arrested, charged, and convicted of violating any of the bill's prohibitions. The state revenues would be in the form of locally collected state court costs that are forwarded for deposit to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Euthanasia drugs and rulemaking

The bill may impose some minimal costs to the State Board of Pharmacy and Veterinary Medical Licensing Board associated with rulemaking provisions in the bill. Specifically, the bill requires the Veterinary Medical Licensing Board to approve euthanasia substances by rule as the bill removes the limitation on euthanasia substances. The bill also allows the State Board of Pharmacy to approve the distribution of drugs from a terminal distributor to a person other than the originating wholesale distributor (such as from an animal shelter to a dog warden).

Bestiality and animal fighting uniformity

The bill reenacts current law provisions governing sexual conduct with an animal (bestiality) and animal fighting, originally enacted by S.B. 331 of the 131st General Assembly. The bill, which dealt with pet stores, also contained provisions dealing with employment and telecommunications, and was subsequently challenged as a violation of the Ohio Constitution's one-subject rule. While 11 of Ohio's 12 district courts of appeals maintained the animal fighting and bestiality provisions, the Sixth District Court of Appeals (based in Toledo, and presiding over Erie, Fulton, Huron, Lucas, Ottawa, Sandusky, Williams, and Wood counties) found the bill to be unconstitutional in its entirety due to the lack of a primary subject matter. Since the ruling only pertains to those counties under the jurisdiction of the Sixth District Court of Appeals, the bill's animal fighting and bestiality provisions are still effective for the remainder of the state. As

such, the remainder of this fiscal note describes the fiscal impact as it pertains only to those counties under the jurisdiction of the Sixth District Court of Appeals.

Sexual contact with an animal

The bill prohibits certain activities that pertain to sexual conduct with an animal. A violation of any of the bill's prohibitions is a second degree misdemeanor, which carries the possibility of a jail term of not more than 90 days, a maximum fine of \$750, or both.

Although not specifically prohibited prior to the enactment of S.B. 331, current practice indicated that this conduct had been successfully prosecuted using misdemeanor prohibitions against injuring, or cruelty to, animals. It also appeared that arrests for this conduct were relatively infrequent. This suggested that, in any given year, the bill was not likely to create a discernible increase in the number of persons arrested, prosecuted, and sanctioned for an animal cruelty violation. Thus, to the degree that violations of the bill's prohibition generated any tangible additional processing and sanctioning costs for a county or municipal criminal justice system, such costs would be negligible annually. Those costs could include some mix of investigative work by local law enforcement, prosecution, adjudication, indigent defense, jail time, and probation.

In the case of a person convicted of, or pleading guilty to, a misdemeanor, the court generally is authorized to impose a mix of state and local court costs, fees, and fines, and permitted to waive their imposition if the offender is determined to be indigent. The likely amounts to be generated annually for either the state, counties, or municipalities will be negligible. This is because many offenders are either financially unable or unwilling to pay, and very few offenders will be arrested, charged, and convicted of violating any of the bill's prohibitions. The state revenues would be in the form of locally collected state court costs that are forwarded for deposit to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

The bill also applies existing procedures and requirements to the seizure, impoundment, and disposition of the animal, and permits the court under certain specified circumstances to require the offender undergo a psychological evaluation or counseling. The court is required to order the offender to pay the costs of the evaluation or counseling. The bill is silent on payment of those costs if the offender is determined to be indigent. The costs for county and municipal authorities to comply with these duties and responsibilities will be negligible annually.

Animal fighting

The bill adds to the types of activities associated with animal fighting that are criminal offenses, and alters existing animal fighting prohibitions and increases penalties for several of those prohibitions. Generally, many of the offenses related to the activity associated with animal fighting are prohibited under the law as it was prior to March 21, 2017. The bill effectively provides for certain penalty enhancements that could lead to more expedient prosecution and adjudication of such offenses. (For a complete description of the bill's prohibitions related to animal fighting, please refer to the LSC bill analysis.)

The bill's animal fighting provisions will have a minimal at most effect on the annual operating costs of county and municipal criminal justice systems. Those costs include investigation, prosecution, defense (if the offender is indigent), adjudication, and sanctioning (if the person is convicted or pleads guilty). The number of criminal cases that could be generated,

or affected, by violations of the prohibitions are expected to be relatively small in the context of any given local criminal justice system's workload. Related revenue in the form of fines and court costs and fees collected from offenders may offset those costs to some degree.