

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7672

BILL NUMBER: HB 1387

NOTE PREPARED: Apr 28, 2007

BILL AMENDED: Apr 26, 2007

SUBJECT: Animal Cruelty.

FIRST AUTHOR: Rep. Lawson L

FIRST SPONSOR: Sen. Lanane

BILL STATUS: As Passed Senate

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Definition of Crime Involving Domestic or Family Violence: The bill specifies that the definition of "crime involving domestic or family violence" includes certain crimes involving animal cruelty used to threaten, intimidate, coerce, harass, or terrorize a family or household member.

Definition of Terms: It defines certain terms used in the animal cruelty statute.

Exemptions: It exempts: (1) destruction of or injury to a fish; and (2) destruction of an animal that is threatening or harming livestock, a domestic animal, or property from the animal cruelty statute.

Conditions: It also permits a court to prohibit or impose conditions on the right of a person convicted of certain animal cruelty offenses to possess an animal.

Animal Cruelty: Specifies that animal cruelty based on abandonment or neglect may only be committed by the animal's owner, and creates a defense if the owner reasonably believed that the animal was capable of surviving on its own.

Animal Fighting Contest: The bill makes purchasing an animal with the intent to use the animal in an animal fighting contest a Class D felony.

State Veterinarian: The bill requires the State Veterinarian or the designee of the State Veterinarian to investigate the condition of a mistreated animal if the owner is criminally charged with an offense relating

to the animal's mistreatment and make a recommendation concerning the animal's confiscation.

Criminal Offenses: The bill makes killing an animal with the intent used to threaten, intimidate, coerce, harass, or terrorize a family or household member a Class D felony, and makes sexual intercourse or deviate sexual conduct with an animal a Class D felony.

Counseling: It requires a court to consider requiring a person who commits animal cruelty to receive counseling as part of the sentence or dispositional decree.

Effective Date: July 1, 2007.

Explanation of State Expenditures: *Summary* - The bill could increase costs to the state and local units by adding to the definition of crimes involving domestic or family violence and by adding new criminal offenses.

Definition of Crime Involving Domestic or Family Violence: There are four sections of the code that define domestic or family violence. These sections relate to family law including determination of custody, supervision of parent time, and protective orders; eligibility and disqualification for unemployment benefits; civil protection orders and workplace violence restraining orders; and in criminal law sections involving stalking. By adding to these definitions animal cruelty to used to threaten, intimidate, coerce, harass, or terrorize a family or household member, more actions may need to be taken by state and local authorities and more court time may be used.

Criminal Offenses: The bill adds to the definition of cruelty to an animal, a Class D felony, and adds two new felonies:

- Domestic violence animal cruelty, a Class D felony.
- Bestiality, a Class D felony.

Background: Under current law, there were eight offenders committed to state correctional facilities for cruelty to an animal as a Class D felony in 2005.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

Animal Fighting Contest: The bill increases the penalty for knowingly or intentionally purchasing or possessing an animal to use the animal in a fighting contest from a Class A misdemeanor to a Class D felony. If more offenders are sentenced to a state correctional facility rather than a county jail, costs for the state could increase.

State Veterinarian: The bill could substantially increase costs for the State Veterinarian who will be appointed by the court to investigate the condition of animals when there is charge of an offense against an animal. The State Veterinarian or the State Veterinarian's designee is currently appointed in cases involving

livestock, but under the bill would be appointed in all cases involving an offense against an animal. The number of additional cases for which the State Veterinarian or the State Veterinarian's designee would be appointed is indeterminate, but expected to increase caseload.

Background on the State Veterinarian: In addition to being appointed by the court, the powers and duties of the State Veterinarian include assisting law enforcement with investigations. The State Veterinarian usually gets involved in a case prior to a court appointment to assess animal condition prior to charges being filed. The State Veterinarian assists with large animal cases, but may be called when there are a large number of animals that are not livestock and no local veterinarian is available. In FY 2006, the Board of Animal Health expended \$3.6 M for all functions including investigations.

Explanation of State Revenues: *Criminal Offenses:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000 and the maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Animal Cruelty: Recklessly, knowingly, or intentionally abandoning or neglecting an animal under current law is cruelty to an animal, a Class B misdemeanor. Under the bill, the penalty would not change, but the law would specify that the person who commits this offense is the animal's owner. There are no data available to indicate if this change would have fiscal impact on fine revenues. The maximum fine for a Class B misdemeanor is \$1,000.

Explanation of Local Expenditures: *Criminal Offenses:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. Also, a Class A misdemeanor is punishable by up to one year in jail. The average cost per day is approximately \$44.

Definition of Crime Involving Domestic or Family Violence: More actions may need to be taken by local agencies or more court time used to address the changes to the four sections of the code that define domestic or family violence.

Animal Fighting Contest: If more offenders are sentenced to a state facility rather than a county jail, the costs to confine these offenders in a county jail would be reduced.

Counseling: The bill requires the court to consider requiring a person convicted or a juvenile adjudicated of animal cruelty to receive psychological, behavioral, or other counseling. To the extent that the court imposes counseling as a part of the sentence on an offender or a juvenile who is indigent, costs for local units may increase to cover the costs of counseling. Ultimately, the costs to local units will be based on the actions of the court in sentencing offenders.

Animal Cruelty: A Class B misdemeanor is punishable by up to 180 days in jail.

Explanation of Local Revenues: *Criminal Offenses:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

Animal Cruelty: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction, Gary Haynes, State Board of Animal Health, 317-227-0349.

Fiscal Analyst: Karen Firestone, 317-234-2106.