

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0331-02
Bill No.: Perfected HCS for HB 384
Subject: Animals; Law Enforcement Officers and Agencies
Type: Original
Date: April 19, 2017

Bill Summary: This proposal changes the laws regarding confiscation of animals.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Agriculture (AGR)** assume this proposal will have a negative fiscal impact on their organization of unknown up to \$4.6 million and references a similar proposal from the 2015 session (HB 79) for the basis of their assumption.

In response to a similar proposal from the 2015 session (HB 79), officials at AGR provided the following:

AGR assumed if the department was designated as the third party approved by the court or required in any way to care for confiscated animals costs to build and maintain such an animal care facility would be approximately \$4.6 million.

AGR assumed any political subdivision impounding animals for the purposes of ensuring their protection from abuse, neglect, or cruelty would be impacted by additional costs of keeping and caring for the animals.

AGR assumed the proposal could require the AGR, Animal Care Facilities Act Program, to expand the program by constructing and staffing a shelter for animals taken under the authority of a warrant for the purpose of care and maintenance of the animals pending acquittal, conviction, or final discharge of the owner.

AGR assumed the proposal could require an animal shelter with a holding capacity of 450 animals at a cost of \$4,566,903 to be built, plus operating and maintenance costs in FY 2016. FTE and maintenance costs would be \$654,251 in FY 17 and \$661,284 in FY 18. These costs include one (1) Veterinarian I, nine (9) Animal Health Officers, and one (1) administrative assistant to staff the shelter and carry out the provisions of this proposed legislation.

AGR assumed all animals would be affected (e.g. horses, cows, exotic animals, etc.). However, the estimated costs are based on dogs only. Total costs for all species are unknown.

AGR notes, the state of Missouri has 243 municipal or local government dog pounds, 248 non-profit licensees listed as animal shelters, contract kennels, or rescues, and one for profit animal shelter.

Oversight assumes under current law, AGR, along with local law enforcement, facilitates the removal and placement of animals subject to a warrant and seizure. This proposal requires an initial disposition hearing within the first 10 days of the confiscation by the authority through which the warrant was issued.

ASSUMPTION (continued)

Oversight assumes this proposal requires reasonable bond or security by the animal owner to be posted within 72 hours of the disposition hearing for all animal board costs while the animal is held in custody until final disposition or dismissal of the case. Upon conviction the animal owner is liable for all costs related to the removal and care of the animal.

Oversight assumes any confiscated animal care costs, should the animal owner be acquitted, has an inability to pay before the initial disposition hearing, or upon conviction, would be incurred by veterinarians, local government dog pounds, animal shelters, animal rescue facilities, or another third party with existing animal care facilities approved by the court.

In response to a similar proposal from 2016 (HB 1969), officials at the **City of Independence** assumed the proposal would have a negative fiscal impact on their organization as follows:

Costs:

1. Animal Control services are operated by the City of Independence Health Department. removing “public health official” from the text would require the Independence Police Department (IPD) to coordinate all warrants on behalf of the Health Department. This would increase the cost of processing each search warrant by more than \$400.
2. Not requiring the animal owner to be liable for cost accrued if the owner is not convicted, would likely result in an annual cost to the City of over \$1,000.

Total annual increase in costs are estimated to be approximately \$2,600.

Losses:

According to the City of Independence Law Department, the 16th Judicial Circuit Court of Jackson County is already overwhelmed with felony cases. It is anticipated that the processing of the search warrant, including the disposition hearing, through the Circuit court would significantly increase the time to resolve the potential life and death situation. The main loss is delaying confiscation/impoundment from 24 hours (current time to get a search warrant) to five or more days. This extra delay poses a significant risk to both the public and to the animal.

In response to a similar proposal from 2016 (HB 1969), officials at the **St. Louis County - Department of Public Health** assumed the proposal would have a negative fiscal impact to their organization. The amount would vary depending on the number of animals that are confiscated. Per animal our daily cost for boarding, feeding and staff care is \$15.00. Plus there are costs for veterinary care and medications.

ASSUMPTION (continued)

Based on real events we have experienced in the past the costs could easily exceed \$150,000 a year.

In response to a similar proposal from 2016 (HB 1969), officials at the **St. Louis County Police Department** assumed the proposal would have an unknown negative fiscal impact on their organization as follows.

This proposal would require a police officer apply for all animal confiscation warrants rather than animal control officers. While the Police Department currently assists with these cases, the animal control officers would no longer be able to function without Police involvement.

Also, this proposal would change the usual disposition hearing following an animal confiscation from thirty days to ten days. There are serious implications of moving the hearing to ten days rather than thirty. For example, many tests completed by the veterinarian and lab will not be completed within ten days. If the tests are completed in the rushed time frame, the case may be found in favor of the pet owner and the police would have wasted time and man power.

The increase in man hours, paperwork, and overtime are difficult to estimate. The police officers' process if involved in an animal confiscation case would be as follows.

The officer would have to compile evidence and apply for a warrant. After approval, the officer would then have to respond to the location where the animal is being maintained with the health department and animal control to serve the warrant. If the owner of the animal is not on-scene, it is the officer's responsibility to locate the individual and serve them in person. After completing all necessary reports and having them approved, the officer would have to respond to a disposition hearing within ten days. During this process, the officer involved would no longer be able to respond to other calls and additional officers would have to complete the work the missing officer would generally complete, generating overtime costs.

According to the Problem Properties Unit, the current process followed to confiscate animals takes an average of 24-40 hours to complete from start to finish. If the process was changed as proposed, there could be an increase of hours worked or the process may be halted completely because the owner(s) can often not be located.

For the purpose of the fiscal note, **Oversight** will assume an unknown cost to local government dog pounds, shelters, and rescues as a result of this proposal.

ASSUMPTION (continued)

For the purpose of this proposed legislation, officials at the **State Public Defender's Office (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crime of intentionally euthanizing, or sterilizing animals unlawfully seized or removed from an owner until final disposition of the charges against the owner. This would be a new Class B misdemeanor and subsequent offenses would be a Class A misdemeanor.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials at the **Department of Corrections**, the **Office of Prosecution Services**, the **Office of State Courts Administrator**, the **Joint Committee on Administrative Rules**, the **Department of Health and Senior Services**, the **Office of Secretary of State**, and the **Department of Public Safety - Highway Patrol** each assume this proposal will not have a fiscal impact on their respective organizations.

In response to a previous version of this proposal, officials at the **Attorney General's Office** assumed the proposal will not have a fiscal impact on their respective organizations.

Officials at the **Springfield Police Department** assume this proposal would not have a fiscal impact on their organization.

Officials at the **St. Louis County Justice Services** assume the proposal would not have a fiscal impact on their organization.

Officials at the **City of Kansas City** assume this proposal would have a negative fiscal impact of an indeterminate amount.

Officials at the **Callaway County** assume this proposal would not have a fiscal impact on their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
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LOCAL GOVERNMENT FUNDS

<u>Revenue - Animal Rescue Facilities - Bond or security for animal care costs from the animal owner</u>	Unknown	Unknown	Unknown
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<u>Cost - Animal Rescue Facilities - Care of animals held until final disposition of charges and acquittal or inability to pay</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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ESTIMATED NET EFFECT ON LOCAL GOVERNMENT FUNDS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
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FISCAL IMPACT - Small Business

Non-profit and for profit animal shelters, or animal rescue facilities would expect to see additional costs as a direct result of this proposal.

FISCAL DESCRIPTION

This bill changes the laws regarding the confiscation of animals. In its main provisions, the bill:

- (1) Removes a public health official from the individuals authorized to seek a warrant to enter property to inspect, care for, or confiscate neglected or abused animals;
- (2) Requires a person acting under the authority of a warrant to appear at a disposition hearing before the court through which the warrant was issued within 10 days of the confiscation, instead of being given a disposition hearing within 30 days of the filing of the request, for the purpose of granting immediate disposition of the animals. An animal cannot be sterilized before the completion of the disposition hearing unless it is necessary to save life or relieve suffering;

FISCAL DESCRIPTION (continued)

- (3) Allows a third party approved by the court to care for confiscated animals;
- (4) Specifies that the owner of any animal that has been confiscated cannot be responsible for the animal's care and keeping prior to a disposition hearing if the owner is acquitted or there is a final discharge without conviction;
- (5) Requires a reasonable bond or security to be posted within 72 hours of the disposition hearing in an amount sufficient to provide for the care of the animal and consistent with the fair market cost of boarding the animal in an appropriate retail boarding facility if the owner, custodian, or any person claiming an interest in an animal that has been confiscated because of neglect or abuse would like to prevent disposition of the animal while the case proceeds. Currently, the owner, custodian, or any person claiming an interest in an animal that has been impounded because of neglect or abuse may prevent disposition of the animal by posting bond or security in an amount sufficient to provide for the animal's care for at least 30 days, inclusive of the date on which the animal was taken into custody;
- (6) Specifies that all animals confiscated must receive proper care as determined by state law and regulations. Any facility or organization must be liable to the owner for damages for any negligent act or abuse of the animal which occurs while the animal is in its care, custody, and control;
- (7) Allows an owner to demand the return of the animal held in custody if he or she posted a sufficient bond and is acquitted or there is a final discharge without a conviction unless there is a settlement agreement, consent judgment, or a suspended imposition of sentence. Any entity with care, custody, and control of the animal must immediately return it to the owner upon demand and proof of the acquittal or final discharge without conviction. The animal owner must not be liable for any costs incurred relating to the placement or care of the animal while the charges were pending unless there is a settlement agreement, consent judgment, or a suspended imposition of sentence;
- (8) Specifies that any person or entity that intentionally euthanizes, other than as permissible under the provisions of the bill, or intentionally sterilizes an animal prior to a disposition hearing or during any period for which a reasonable bond was secured for the animal's care will be guilty of a class B misdemeanor and is liable to the owner for damages including the actual value of the animal. Each individual animal for which a violation occurs is a separate offense. Any second or subsequent violation is a class A misdemeanor, and any entity licensed under state law must be subject to licensure sanction by its governing body;
- (9) Includes dogs confiscated by any member of the State Highway Patrol or other law enforcement officer that were involved in dog fighting to those animals covered under these provisions; and

FISCAL DESCRIPTION (continued)

(10) Requires, in the event that the animal owner is not liable for the costs incurred, the confiscating agency to be responsible for the usual and customary veterinary costs and fair market boarding fees and be liable for the life or death of the animal and for medical procedures performed while the charges were pending.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator
Department of Corrections
Office of Prosecution Services
State Public Defender's Office
Department of Public Safety - Highway Patrol
Attorney General's Office
Joint Committee on Administrative Rules
Department of Health and Senior Services
Office of Secretary of State
City of Independence
St. Louis County Health Department
St. Louis Police Department
St. Louis County Justice Services
Springfield Police Department
City of Kansas City
Callaway County



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