

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0355-01
Bill No.: Perfected HB 204
Subject: Animals; Law Enforcement Officers and Agencies
Type: Original
Date: March 6, 2019

Bill Summary: This proposal modifies provisions relating to the confiscation of animals.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
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 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
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 2020	FY 2021	FY 2022
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture** assume there will be no fiscal impact on their organization from this proposal based on recent history.

For the purpose of this proposed legislation, officials from the **Office of State Public Defender (SPD)** state they 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 an animal without proper authority would be charged with a new Class B misdemeanor - subsequent offenses would be a new Class A misdemeanor. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

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 effective representation in all cases where the right to counsel attaches.

SPD notes in FY 2018, the Trial Division did not open any cases under charge code 578.018.

Oversight assumes there will be minimal (if any) new cases as a result of this proposal, based on the SPD not opening any cases under charge code 578.018 in FY 2018. Therefore, Oversight will not reflect a fiscal impact on the SPD on this fiscal note.

Officials from the **City of Independence Police Department** estimates the fiscal impact of this proposal to be as follows:

- Animal control services are operated by the City of Independence Police Department. Changing the text to "duly authorized law enforcement official" would require sworn officers of the Independence Police Department (IPD) to apply for and coordinate all warrants on behalf of the Animal Services unit. This would increase the cost of processing each search warrant by more than \$400. Additionally, it would create a manpower issue for police detectives, who are already overwhelmed with high priority cases, property crimes and felony investigations. Animal Services Officers have historically handled this responsibility in our city and this system works very well without becoming a burden on criminal investigators.

ASSUMPTION (continued)

- 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 for animals involved. Currently, Animal Services can typically prepare a search warrant and have it signed in less than twenty-four hours. It is anticipated to take five or more days with the proposed changes.

Officials from the **St. Louis County Police Department** assume this proposal would require the department have a police officer apply for all animal confiscation warrants rather than animal control officers. While the police department currently assists the health department with these cases, the animal control officers would no longer be able to function without police involvement.

The proposal also removes the ability to post search warrant materials on the property. The proposal would require that a resident of the property be served with the appropriate materials. In some cases this may make executing the search warrant impossible.

The 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 manpower.

The increase in man hours, paperwork and overtime are difficult to estimate. The police officer's process, if involved in 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, the officer must locate a resident of the property and serve them in person, which may be impossible. 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.

ASSUMPTION (continued)

According to an officer assigned to the Problem Properties Unit, the current process to confiscate animals takes an average of 24 to 40 hours to complete from start to finish. If the process were changed, there could be an increase of hours worked.

Oversight assumes local law enforcement agencies could incur increased costs related to this proposal; therefore, Oversight will reflect an “Unknown” cost to law enforcement agencies on the fiscal note.

Officials from the **Department of Corrections, Attorney General’s Office, Office of Prosecution Services, Office of the State Courts Administrator, Department of Public Safety - Missouri Highway Patrol, Department of Health and Senior Services, St. Louis County of Justice Services and Boone County Sheriff’s Office** each assume the proposal will have no fiscal impact on their respective organizations.

Oversight notes that the agencies mentioned above plus the Department of Agriculture have each stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note to the state.

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.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
LOCAL POLITICAL SUBDIVISIONS			
<u>Revenue</u> - Animal Rescue Facilities - Bond or security for animal care costs from the animal owner	Unknown	Unknown	Unknown
<u>Cost</u> - Animal Rescue Facilities - Care of animals held until final disposition of charges and acquittal or inability to pay	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - Law Enforcement Agencies - Increased duties in the animal confiscation process	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

Small business animal shelters and veterinary facilities might incur additional costs as a 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;
- (3) Allows a third party approved by the court to care for confiscated animals;

FISCAL DESCRIPTION (continued)

(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) Specifies that in the event that an animal owner is not liable for the costs incurred while the charges were pending, the costs of care and the liability for the life or death of the animal and medical procedures performed are the responsibility of the confiscating agency;

(8) 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;

(9) 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.

FISCAL DESCRIPTION (continued)

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;

(10) 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

(11) 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

Department of Agriculture
Office of the State Courts Administrator
Department of Corrections
Office of Prosecution Services
Office of the State Public Defender
Department of Public Safety - Missouri Highway Patrol
Attorney General's Office
Department of Health and Senior Services
St. Louis County Police Department
City of Independence Police Department
Boone County Sheriff's Office
St. Louis County of Justice Services



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