

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0041-01
Bill No.: HB 43
Subject: Animals; Crimes and Punishment
Type: Original
Date: January 11, 2019

Bill Summary: This proposal increases the penalties for the offense of animal abuse.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2023)
General Revenue	(Less than \$162,870)	(Less than \$253,906)	(Less than \$263,525)	(Less than \$273,467)
Total Estimated Net Effect on General Revenue	(Less than \$162,870)	(Less than \$253,906)	(Less than \$263,525)	(Less than \$273,467)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2023)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2023)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2023)
Total Estimated Net Effect on FTE	0	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	Fully Implemented (FY 2023)
Local Government	\$0	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§578.012 - Animal abuse

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 enhanced penalties for animal abuse - from a class A misdemeanor to a new class E felony. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

In Fiscal Year 2018, SPD's Trial Division opened 25 cases under charge code 578.012 of the 63,395 total cases opened.

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.

Oversight notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity, and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

According to "The Missouri Project" (RubinBrown, June 2014), the number of hours that should be spent on a misdemeanor case is 13.3. This number takes into account time for travel and in-court appearances. In contrast, the number of hours that should be spent on a C/D/E felony case is 28.5. This equates to a difference of 15.2 additional hours spent on a felony case versus a misdemeanor case ($28.5 - 13.3 = 15.2$). In 2018, the SPD opened 25 cases of animal abuse. For purposes of this fiscal note, **Oversight** assumes the same number of cases will be opened in 2019 and all of the cases will be felonies. Therefore, SPD could spend an additional 380 hours on these cases ($15.2 \text{ hours} \times 25 \text{ cases}$) annually.

ASSUMPTION (continued)

Oversight assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Officials from the **Department of Corrections (DOC)** state this bill seeks to increase the penalty for animal abuse from a class A misdemeanor to a class E felony. Prior offenders of animal abuse or those who torture animals will be charged with a class D felony instead of the current class E felony.

The Division of Adult Institutions (DAI) had one new admission for the current class E felony offense of animal abuse and five new probations in FY17. The Office of State Courts Administrator reports in FY18 there were 62 class A misdemeanors for animal abuse.

For the new class D felony, there will be slight increases to include serving a 1.6 year longer average sentence. They will also spend 0.3 years more before their first release and 0.7 years longer on parole. The probation population will see no changes.

For the new class E felony of animal abuse, the DOC estimates 62 new offenders. Twelve will receive a term sentence and fifty will receive a probation term. The average sentence for a nonviolent class E offense is 3.4 years of which 2.1 years will be served in prison while the remaining 1.3 years will be on parole and probation terms will be 3 years. The cumulative impact on DOC is 26 additional offenders in prison and 167 on field supervision by FY 2024.

	# to prison	Cost per year	Total Costs for prison	# to probation & parole	Cost per year	Total cost for probation and parole	Grand Total - Prison and Probation (includes and 2% inflation)
Year 1	12.0	(\$6,287)	(\$62,870)	50	absorbed	\$0	(\$62,870)
Year 2	24.0	(\$6,287)	(\$153,906)	100	absorbed	\$0	(\$153,906)
Year 3	25.0	(\$6,287)	(\$163,525)	160	absorbed	\$0	(\$163,525)
Year 4	26.0	(\$6,287)	(\$173,467)	166	absorbed	\$0	(\$173,467)
Year 5	26.0	(\$6,287)	(\$176,937)	167	absorbed	\$0	(\$176,937)
Year 6	26.0	(\$6,287)	(\$180,475)	167	absorbed	\$0	(\$180,475)
Year 7	26.0	(\$6,287)	(\$184,085)	167	absorbed	\$0	(\$184,085)
Year 8	26.0	(\$6,287)	(\$187,766)	167	absorbed	\$0	(\$187,766)
Year 9	26.0	(\$6,287)	(\$191,522)	167	absorbed	\$0	(\$191,522)
Year 10	26.0	(\$6,287)	(\$195,352)	167	absorbed	\$0	(\$195,352)

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

ASSUMPTION (continued)

Oversight notes that the **Department of Agriculture, Department of Public Safety - Missouri State Highway Patrol, Office of Prosecution Services and Office of State Courts Administrator** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2023)
GENERAL REVENUE FUND				
<u>Costs - DOC</u> (\$578.012)				
Increased incarceration costs	(\$62,870)	(\$153,906)	(\$163,525)	(\$173,467)
<u>Costs - SPD</u> (\$578.012)				
Salaries, fringe benefits, and equipment and expense	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Less than \$162,870)</u>	<u>(Less than \$253,906)</u>	<u>(Less than \$263,525)</u>	<u>(Less than \$273,467)</u>
 <u>FISCAL IMPACT -</u> <u>Local Government</u>				
	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2023)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill increases the penalty for animal abuse from a class A misdemeanor to a class E felony. In instances where the defendant has been previously found guilty of animal abuse or where the defendant has been found guilty of consciously torturing or mutilating an animal while it was alive, the penalty is increased from a class E felony to a class D felony.

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
Department of Corrections
Department of Public Safety -
 Missouri State Highway Patrol
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office



Kyle Rieman
Director
January 11, 2019

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Assistant Director
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