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FISCAL IMPACT REPORT

SPONSOR <u>SJC</u>	ORIGINAL DATE 01/29/09	LAST UPDATED 03/16/09	HB _____
SHORT TITLE <u>Custody & Care Of Mistreated Animals</u>			SB <u>127/SJCS/aSJC/aHJC/aHFI#1</u>
		ANALYST Wilson	

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$0.1	\$0.1	\$0.1		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Regulation & Licensing (RLD)

SUMMARY

Synopsis of HFI #1 Amendment

The House Floor Amendment to the Senate Judiciary Committee substitute for SB 127, as amended clarifies that a voluntary relinquishment shall not preclude further prosecution of any criminal charges alleging that the owner has committed felony cruelty to animals.

Synopsis of HJC Amendment

The House Judiciary Committee amendment to the Senate Judiciary Committee substitute for SB 127 does the following:

- Clarifies that the owner of an animal who has been cruelly treated may be ordered to post security with the court.
- Removes language requiring the security to be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred in caring and providing for the animal pending disposition of the criminal charges.
- Adds language stating the court shall determine the amount of security while taking into consideration all of the circumstances of the case including the owner's ability to pay and may with the permission of the court conduct periodic reviews of its order.
- Removes language stating nothing in this section shall prohibit an owner from voluntarily relinquishing an animal to an animal control agency or shelter in lieu of posting security. A voluntary relinquishment shall have no effect on the disposition of any criminal charges alleging that the owner has committed cruelty to animals.

- Clarifies that upon conviction, a defendant shall be liable for the reasonable cost of boarding the animal and all necessary veterinary examinations and care provided to the animal.
- Restores language stating in the absence of a conviction, the seizing agency shall bear the costs of boarding the animal and all necessary veterinary examinations and care of the animal during the pendency of the proceedings.
- Requires all of the security posted pursuant to Section 30-18-1.2 NMSA 1978 with the return of the animal in the absence of a conviction.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to the Senate Judiciary Committee substitute for SB 127 allows a court to deem an animal abandoned and relinquish the animal to an animal control agency, animal shelter or animal welfare organization for adoption or humane destruction instead or requiring the court to so in cases when an owner of the animal does not post security within 15 days after the issuance of the order, or if, after reasonable and diligent attempts the owner cannot be located.

Synopsis of Original Bill

The Senate Judiciary Committee Substitute for Senate Bill 127 amends the criminal offenses for cruelty to animals Section 30-18-1.2 NMSA 1978 to allow an animal shelter or an agent of the New Mexico Livestock Board to petition the court to require a person, whose animal has been placed with the shelter because the animal has been cruelly treated, to post security to indemnify the shelter for costs related to the animal's care pending disposition of criminal animal cruelty charges. If the security is ordered and obtained, the shelter may draw from the security to cover the costs incurred to care and provide for the animal. If the owner does not post security after 15 days of the order, or if after reasonable and diligent attempts the owner cannot be located, the animal shall be deemed abandoned and relinquished to the shelter or Livestock Board.

The bill grants the owners a choice to voluntarily relinquish the animal to the shelter in lieu of posting security.

Additionally, the bill changes the courts authority over the animal once the owner is convicted. Upon conviction the court shall, rather than may, place the animal with an animal shelter for adoption or humane euthanasia. It further changes the owners fiscal responsibility following conviction from may to shall be liable for cost incurred to care for the animal above the security posted. Likewise, any security posted that is not used for the animals care is returned to the owner.

In the absence of a conviction, the seizing agency shall return the animal, if not previously relinquished as well as all unexpended amounts of the security posted.

Livestock that is seized can be sold after following the procedures outlined in this bill, except for poultry associated with cockfighting.

As used in this bill livestock means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

Local animal shelters are currently caring for animals that have been removed from a home because of alleged abuse. The provisions of this bill will allow the shelters and the livestock board to be reimbursed for the care of the animal. Currently, the courts cannot mandate reimbursement of these costs which can reach into the tens of thousands of dollars.

SIGNIFICANT ISSUES

Posting a security deposit for animal care is not a punitive measure, but rather represents the normal cost of properly caring for animals. The link between cruelty to animals and violence to humans is well established. These amendments will protect animals from further abuse and will allow for more effective intervention against those whose violent criminal behavior often begins with animal cruelty.

The seizure of animals in some animal cruelty cases is being hampered by the current wording of the cruelty statute, resulting in a lack of remedy for involved agencies:

Agencies that seize animals currently have no financial assistance for the rehabilitation and maintenance of domestic animals and livestock seized for protective custody during the adjudication of a cruelty case.

Seized animals that are in protective custody are occupying precious shelter kennel space for months and sometimes years at a time. These animals reduce the space available to house homeless animals in local animal shelters or in the custody of the Livestock Board.

Long-term holding times for animals in shelters can result in mental and physical suffering for the animals, who have limited access to exercise and interaction. If health problems and injury of animals develop and the animals are returned to the owner “damaged,” there is a potential for the community to be liable to the owner.

OTHER SUBSTANTIVE ISSUES

Other states with indemnity laws are: AZ, CA, CO, CT, GA, ID, IL, KS, LA, MO, NH, NY, OR, SC, TN, VT, WA and WV.

DW/mt:mc:svb