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FISCAL IMPACT REPORT

SPONSOR: Thompson DATE TYPED: 3/06/03 HB CS/19/aHFl#1

SHORT TITLE: Companion Animal Hoarding SB _____

ANALYST: Fox-Young

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			.1 Minimal		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From

Attorney General (AG)
Public Defender Department (PDD)

No Response

Administrative Office of the Courts (AOC)
Administrative Office of the District Attorneys (AODA)
Department of Public Safety (DPS)

SUMMARY

Synopsis of House Floor Amendment

The House makes a technical adjustment to the HJC Substitute for House Bill 19. The amended bill defines “companion animal” as a domesticated animal, excluding fish **and livestock**, that a reasonable person would consider a pet or that is considered by the owner to be a pet.

Synopsis of Bill

The House Judiciary Committee Substitute for House Bill 19 creates the crime of companion animal hoarding. Whoever commits companion animal hoarding is guilty of a petty misdemeanor.

“Companion animal” means a domesticated animal, excluding fish, that a reasonable person would consider a pet or that is considered by the owner to be a pet.

Companion animal hoarding consists of a person:

- Possessing over fifteen companion animals;
- Failing to provide necessary nutrition to the companion animals;
- Failing to shelter the companion animals in a sanitary environment;
- Failing to provide necessary veterinary care to the companion animals; and
- Displaying a disregard for the conditions under which the companion animals are living.

Upon a conviction for companion animal hoarding, the court may order that the offender is precluded from owning, harboring or having custody or control of companion animals.

A new section of the Criminal Code is enacted to allow peace officers and animal control officers to apply to the court for a warrant to seize the companion animal(s) when they believe that the life or health of companion animals are endangered due to companion animal hoarding. If the court finds probable cause that companion animal hoarding is occurring, the court shall issue a warrant for seizure of the animals. The court shall schedule a hearing on the matter as expeditiously as possible within ten days unless good cause is demonstrated by the state for a hearing at a later time. The court may authorize individuals to care for, treat and attempt to restore the health of the companion animals. The bill further details the legal process to be followed in such cases.

Significant Issues

This bill does not apply to work animals or service animals.

The Attorney General (AG) reports that the elements of the crime as described in § 1B of the legislation require the state to prove, in addition to possessing over fifteen animals, that the owner has failed to provide nutrition, failed to shelter the animals in a sanitary environment, failed to provide veterinary care, and displayed a disregard for conditions. Due to the large number of elements, particularly failing to provide necessary veterinary care, these will not simple cases to investigate and prosecute. The existing crime of cruelty to animals, § 30-18-1 is more general in scope.

AOC notes that the requirement that hearings be held within ten days will have a significant impact on court scheduling.

FISCAL IMPLICATIONS

Courts will likely experience increases in workload due to increases in case processing time and in tracking cases to completion of counseling and other conditions of release.

There will likely be an additional fiscal impact to the courts and to the Department of Public Safety (DPS) associated with peace officers and animal control officers applying for warrants to seize companion animals.

Depending on the number of court mandated visits by peace officers to individuals charged with companion animal hoarding, DPS could experience increases in workload.

TECHNICAL ISSUES

AG suggests striking “prudent” and inserting “reasonable,” in the following language. (AG indicates that the standard normally used in such situations is “reasonable cause.)

“The court may order publication of the notice of the hearing in a newspaper closest to the location of the seizure if the person charged cannot be found with prudent effort.” (Section 2, paragraph C)

AG recommends inserting “designated” after the phrase “the court may authorize...” (Section 2, paragraph E)

AG recommends striking “articulates probable cause” and inserting “has reasonable cause to believe” (Section 2, paragraph E). AG notes that reasonable cause is the standard normally used in seeking a warrant, and it is also consistent with the language in Section 2, paragraph A.

AG recommends inserting the citation for the Forfeiture Act, NMSA 1978, § 31-27-1 to 31-27-8 (2002), following the reference to the Act. (Section 4)

JCF/yr