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## FISCAL IMPACT REPORT

SPONSOR Beffort DATE TYPED 2/1/05 HB \_\_\_\_\_

SHORT TITLE Pit Bull Breeding Act SB 188

ANALYST Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
		See Narrative		

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the District Attorneys (AODA)

Public Defender Department (PDD)

Attorney General's Office (AGO)

Corrections Department (CD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 188 defines "dangerous dog" as Akitas, Alaskan malamutes, bulldogs, boxers, Canary Island dogs, Chows, Dobermans, German Shepherds, Great Danes, Rottweilers, Siberian Huskies, and wolf hybrids.

SB 188 would restrict ownership of a pit bull dog, would ban breeding of pit bulls, and would require sterilization of such dogs by July, 2006. It would require owners of pit bulls to keep their dogs either indoors or in covered, steel-fenced enclosures at least 6' in height. Owners would be

required to carry a \$100 thousand insurance policy on the dog.

SB 188 provides authority and a procedure by which pit bulls accused of biting can be evaluated as to public safety threat and destroyed, and requires a \$250.00 annual licensing fee for ownership.

SB 188 provides for fines for the owners of dogs that bite (the fines are higher if the dog is a “dangerous dog”), and for dog owners who fight their dogs or fail to neuter their pit bulls. SB188 provides that the owner of a pit bull that bites (defined as requiring a breaking of the skin) a person is guilty of a fourth degree felony, and if a pit bull bites a person twice or seriously injures a person, the owner is guilty of a third degree felony.

SB 188 makes it unlawful to chain a dog.

### Significant Issues

The PDD claims that this sort of breed-specific legislation has been criticized as difficult to enforce. An internet search reveals claims that many “pit bulls” are in fact cross-breeds, and that some American and Canadian kennel associations refuse to recognize them as an individual breed. Some communities in Ontario that have enacted such a ban experienced an increase in abandoned pit bulls left to run wild on the streets.

Animal rights people believe a bill addressing the problem of dangerous and vicious dogs should be behavior specific, not breed-specific.

Animal rights people strongly support making it unlawful to chain a dog. Please see attachment for significant issues.

### **FISCAL IMPLICATIONS**

The AODA cannot determine the cost at this time. However, as various laws have been passed either creating new offenses or enhancing penalties district attorneys caseloads have increased. District attorneys have had minimal budget and FTE increases to deal with the increased workload adequately. This bill will certainly prompt litigation as it has in other places.

The Albuquerque Animal Care Center (AACC) provided the following:

The first problem associated with the assessment is that it is difficult to actually identify the breed. Despite conclusions to the contrary in Garcia v. Village of Tijeras, we have found that identification of the breed is anything but scientifically objective. Experts will disagree in many cases. Our experience dictates that the designation is almost entirely subjective. Shelters have learned that animals identified as pit bulls are less likely to be adopted and probably err toward labeling the dog as any breed other than pit bull. As a result, our estimate of the number of pit bulls arriving at AACC is probably low. Nevertheless, we know that 14% of the animals we impound are identified as pure pit bull. The cost of impounding an animal at AACC is roughly \$179 per animal based on the AACC budget divided by the total number of animals impounded per year. Because part of this budget is used for other purposes, we will use an amount of \$150 per animal to address your inquiry.

The population of the State of New Mexico is 1,874,614. The Humane Society of the United States has compiled data concerning the relationship between the population of humans in a community and the number of animals that will be impounded at shelters in that community. HSUS predicts that the number of animals impounded will be 7% of the human population per year. Following this formula, the state will impound 131,223 animals a year. Again using the low estimate that 14 % of these animals will be pure pit bull, we estimate that the state impounds roughly 18,371 pure pit bulls per year. We have no way of estimating how many pit bulls would be surrendered to shelters in response to a pit bull ban.

Smaller municipalities and counties may not have an infrastructure in place to enforce the requirements in this bill.

### **ADMINISTRATIVE IMPLICATIONS**

This bill places heavy enforcement responsibilities on the cities and counties. This bill will result in more cases referred to district attorneys for prosecution thus increasing current workloads.

CD notes in both the short term and the long term, this bill will somewhat increase the administrative prison staff and probation staff because of the increasing prison population and probation caseloads. The CD will be able to absorb the additional burden due to the fact that the numbers of persons convicted would be minimal.

There is a \$250 license fee for a pit bull and the fines will bring in some revenue, but is not likely to be enough to offset the enforcement costs.

### **OTHER SUBSTANTIVE ISSUES**

The Cincinnati, Ohio City Council has overturned the city's 13-year-old ban on American Staffordshire Terriers, Staffordshire Bull Terriers, and their mixes in favor of a generic dog control ordinance that tightens restrictions on the ownership of all dangerous and vicious dogs.

The new law is backed by the city administration, the law and safety committee, and area dog fanciers, dog owners, and dog rescues.

Drafted by a task force of administration staff, the Hamilton County dog warden, a veterinarian, Ohio Valley Dog Owners Inc., Cincinnati Kennel Club, and members of the general public, the new law requires registration and identification of all dangerous and vicious dogs, including all pit bulls, and will go into effect after a 90-day grace period for owners to register their pets. Because of Ohio law, only dogs identified as pit bull dogs must be registered before they commit an infraction of the law. Other dogs must violate the law before being required to comply with the restrictions.

The breed-specific ban was passed in the late 1980s following several attacks on children by dogs identified as pit bull dogs. During hearings on the proposal to ban pit bulls, owners told city council that their dogs are descended from the purebred American Staffordshire Terriers and Staffordshire Bull Terriers registered by the American Kennel Club, so council specifically banned these breeds and their mixes. However, because the city lacked storage space for im-

pounded dogs, the ordinance was not enforced for nearly 10 years. In 1996, the city contracted with the Hamilton County SPCA to house dogs confiscated as vicious and as members of the banned breeds. Since then, the city has paid the SPCA to house hundreds of the dogs taken from families, breeders, dog fighters, and drug dealers and held during the disposition of their cases.

Interpretation of law has been liberal; some dogs that resemble the proscribed breeds have been impounded even though there is no genetic test that identifies breeds or mixes. In early 1998, the chief deputy dog warden identified eight American Bulldogs as American Staffordshire Terrier mixes and took the dogs to the SPCA. Unlike many other owners whose dogs have been taken under the breed ban, owner Eric Rowe refused to plead guilty to a lesser charge and send his dogs out of the city. Instead, he hired a lawyer, fought the charges, and won.

Although it resembles the pit bull type, the American Bulldog is not a pit bull breed. It is related to the Old English Bulldog, a breed developed in England to herd cattle in the butcher's yard and then used as a bull-baiting dog. After bull-baiting was outlawed in England, the English Bulldog apparently took three paths: some remained as all-around farm dogs, and these continued their careers in the US and became the American Bulldog; some morphed into the short, squat English Bulldog of today; and some were used to create the bull-and-terrier breeds that include the breeds and mixes banned in Cincinnati.

The American Bulldog trial cost the city thousands of dollars in impoundment fees, pre-trial preparation, and trial time, none of which it could recoup because it lost the case. But collection is hit and miss even when the case is won, for owners seldom pay the bill. Where multiple dogs have been removed from a single address and held for months, the costs mount up. One dog owner told the law and safety committee that he had a bill for more than \$11,000 for incarceration of his dogs that he could not afford to pay.

Pit bulls (not specific breeds, but dogs identified as the type used in dog fighting) are described as vicious to comply with the *Ohio Revised Code, Section 955.11(A)(4)(a)(iii)*, which states: "Vicious dog' means a dog that ... belongs to a breed that is commonly known as a pit bull dog." Therefore, all dogs of this description must be registered, identified, and confined as required in the ordinance even if they are gentle family pets. State law and the new Cincinnati law give the dog wardens and veterinarians the authority to identify the breed of dog.

DW/yr

Attachment, pages 5-7



## The Facts About Chaining or Tethering Dogs



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### 1. What is meant by "chaining" or "tethering" dogs?

These terms refer to the practice of fastening a dog to a stationary object or stake, usually in the owner's backyard, as a means of keeping the animal under control. These terms do not refer to the periods when an animal is walked on a leash.

### 2. Is there a problem with continuous chaining or tethering?

Yes, the practice is both inhumane and a threat to the safety of the confined dog, other animals, and humans.

### 3. Why is tethering dogs inhumane?

Dogs are naturally social beings who thrive on interaction with human beings and other animals. A dog kept chained in one spot for hours, days, months, or even years suffers immense psychological damage. An otherwise friendly and docile dog, when kept continuously chained, becomes neurotic, unhappy, anxious, and often aggressive.

In many cases, the necks of chained dogs become raw and covered with sores, the result of improperly fitted collars and the dogs' constant yanking and straining to escape confinement. Dogs have even been found with collars embedded in their necks, the result of years of neglect at the end of a chain. In one case, a veterinarian had to euthanize a dog whose collar, an electrical cord, was so embedded in the animal's neck that it was difficult to see the plug.

### 4. Who says tethering dogs is inhumane?

In addition to The Humane Society of the United States and numerous animal experts, the U. S. Department of Agriculture (USDA) issued a statement in the July 2, 1996, *Federal Register* against tethering:

*"Our experience in enforcing the Animal Welfare Act has led us to conclude that continuous confinement of dogs by a tether is inhumane. A tether significantly restricts a dog's movement. A tether can also become tangled around or hooked on the dog's shelter structure or other objects, further restricting the dog's movement and potentially causing injury."*

### 5. How does tethering or chaining dogs pose a danger to humans?

Dogs tethered for long periods can become highly aggressive. Dogs feel naturally protective of their territory; when confronted with a perceived threat, they respond accord-

her territory.

Numerous attacks on people by tethered dogs have been documented. For example, a study published in the September 15, 2000, issue of the *Journal of the American Veterinary Medical Association* reported that 17% of dogs involved in fatal attacks on humans between 1979 and 1998 were restrained on their owners' property at the time of the attack. Tragically, the victims of such attacks are often children who are unaware of the chained dog's presence until it is too late. Furthermore, a tethered dog who finally does get loose from his chains may remain aggressive, and is likely to chase and attack unsuspecting passersby and pets.

#### **6. Why is tethering dangerous to dogs?**

In addition to the psychological damage wrought by continuous chaining, dogs forced to live on a chain make easy targets for other animals, humans, and biting insects. A chained animal may suffer harassment and teasing from insensitive humans, stinging bites from insects, and, in the worst cases, attacks by other animals. Chained dogs are also easy targets for thieves looking to steal animals for sale to research institutions or to be used as training fodder for organized animal fights. Finally, dogs' tethers can become entangled with other objects, which can choke or strangle the dogs to death.

#### **7. Are these dogs dangerous to other animals?**

In some instances, yes. Any other animal that comes into their area of confinement is in jeopardy. Cats, rabbits, smaller dogs, and others may enter the area when the tethered dog is asleep and then be fiercely attacked when the dog awakens.

#### **8. Are tethered dogs otherwise treated well?**

Rarely does a chained or tethered dog receive sufficient care. Tethered dogs suffer from sporadic feedings, overturned water bowls, inadequate veterinary care, and extreme temperatures. During snow storms, these dogs often have no access to shelter. During periods of extreme heat, they may not receive adequate water or protection from the sun. What's more, because their often neurotic behavior makes them difficult to approach, chained dogs are rarely given even minimal affection. Tethered dogs may become "part of the scenery" and can be easily ignored by their owners.

#### **9. Are the areas in which tethered dogs are confined usually comfortable?**

No, because the dogs have to eat, sleep, urinate, and defecate in a single confined area. Owners who chain their dogs are also less likely to clean the area. Although there may have once been grass in an area of confinement, it is usually so beaten down by the dog's pacing that the ground consists of nothing but dirt or mud.

#### **10. But how else can people confine dogs?**

The HSUS recommends that all dogs be kept indoors at night, taken on regular walks, and otherwise provided with adequate attention, food, water, and veterinary care. If an animal must be housed outside at certain times, he should be placed in a suitable pen with adequate square footage and shelter from the elements.

#### **11. Should chaining or tethering ever be allowed?**

To become well-adjusted companion animals, dogs should interact regularly with people and other animals, and should receive regular exercise. It is an owner's responsibility to properly restrain her dog, just as it is the owner's responsibility to provide ade-

periods is never acceptable.

**12. If a dog is chained or tethered for a period of time, can it be done humanely?**

Animals who must be kept on a tether should be secured in such a way that the tether cannot become entangled with other objects. Collars used to attach an animal should be comfortable and properly fitted; choke chains should never be used. Restraints should allow the animal to move about and lie down comfortably. Animals should never be tethered during natural disasters such as floods, fires, tornadoes, hurricanes, or blizzards.

**13. What about attaching a dog's leash to a "pulley run"?**

Attaching a dog's leash to a long line—such as a clothesline or a manufactured device known as a pulley run—and letting the animal have a larger area in which to explore is preferable to tethering the dog to a stationary object. However, many of the same problems associated with tethering still apply, including attacks on or by other animals, lack of socialization, and safety.

**14. What can be done to correct the problem of tethering dogs?**

At least 25 communities have passed laws that regulate the practice of tethering animals. Maumelle, Arkansas; Tucson, Arizona; and New Hanover, North Carolina, are a few communities that prohibit the chaining or tethering of dogs as a means of continuous confinement. Many other communities allow tethering only under certain conditions; Jefferson County, Kentucky, for example, prohibits dogs from being tethered for more than eight hours in any 24-hour period.

**15. Why should a community outlaw the continuous chaining or tethering of dogs?**

Animal control and humane agencies receive countless calls every day from citizens concerned about animals in these cruel situations. Animal control officers, paid at taxpayer expense, spend many hours trying to educate pet owners about the dangers and cruelty involved in this practice.

A chained animal is caught in a vicious cycle; frustrated by long periods of boredom and social isolation, he becomes a neurotic shell of his former self—further deterring human interaction and kindness. In the end, the helpless dog can only suffer the frustration of watching the world go by in isolation—a cruel fate for what is by nature a highly social animal. Any city, county, or state that bans this practice is a safer, more humane community.