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FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/12

SPONSOR Garcia, M.J. LAST UPDATED _____ HB _____

SHORT TITLE Animal Cruelty Definitions SB 62

ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications*			Recurring	GF & local public bodies law enforcement funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Department of Public Safety (DPS)
 New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

Senate Bill 62 generally expands animal cruelty crimes to include all non-human vertebrates. It then expands the misdemeanor crime of cruelty to animals by expanding and clarifying the definition of failing to provide necessary sustenance, such that the life or health of the animal is endangered due to negligent treatment, to include the failure to provide sufficient food to maintain normal weight; provide water at drinkable temperature; provide adequate, clean, pest-free suitable shelter; proper veterinary care; and proper medical care in the event of an injury or illness; and includes a new element of animal cruelty consisting of tethering or tying the animal in a manner precluding the animal's access to food, water and suitable shelter or causes injury to the animal.

Those convicted of misdemeanor animal cruelty are prohibited from owning, living with or having custody of an animal for five years.

It then makes the misdemeanor crime of animal cruelty into a fourth degree felony if the person has a previous animal cruelty conviction, was previously convicted of domestic violence, or knowingly committed the cruelty in the immediate presence of minor child.

It expands the fourth degree felony of extreme cruelty to animals to cruelty causing the death of

an animal by abandonment, or tethering the animal in manner resulting in the animal's death. Those offenders convicted of this crime are likewise prohibited from owning, living with or having custody of an animal for five years.

Finally, it creates a new third degree felony crime of extreme cruelty to animals if the person has a previous extreme animal cruelty conviction, was previously convicted of domestic violence, or knowingly committed the extreme cruelty in the immediate presence of minor child.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. Increased penalties cases take up a considerable amount of judicial time. 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.

NMCD states that if this bill passes it seems unlikely to lead to a substantial number of new convictions or to result in a substantial increase in the NMCD's inmate population or probation/parole caseloads. However, it is always difficult to predict or estimate the ultimate effect of any expanded crime bill with any certainty. NMCD has no control over who is prosecuted or convicted of this crime, and it is always possible that a large number of offenders could be convicted of this expanded crime in any given year.

SIGNIFICANT ISSUES

The bill codifies the relationship between animal cruelty and domestic violence. There is a well-known and established relationship between animal abuse and other types of family violence.

The definition of animal could be problematic by preventing some conduct the legislature may not want to be discouraged vague and may have unintended consequences such as killing a rattle snake in someone's path.

ADMINISTRATIVE IMPLICATIONS

DPS and local law enforcement will handle the requirements in this bill as part of their ongoing responsibilities.

TECHNICAL ISSUES

The AOC notes that the amendment establishes specific penalties such as the prohibition of ownership or custody of animals for a period of years for the misdemeanor and fourth degree felony offenses, but not for the third degree felony of new Subsection (H).

Also, it is not clear if the penalties of fourth and third degree felonies are cumulative for a person guilty of extreme animal cruelty who also has one of the aggravating circumstances in new Subsection (H).