

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0486-01  
Bill No.: SB 115  
Subject: Animals; Bonds - Surety; Courts; Crimes and Punishment; Law Enforcement Officers and Agencies; Liability; Search and Seizure; Veterinarians  
Type: Original  
Date: February 7, 2019

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Bill Summary: This proposal modifies provisions relating to the confiscation of animals.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 8 pages.

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

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
<b>Local Government</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Agriculture** assume there will be no fiscal impact on their organization from this proposal based on recent history.

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 proposed new crime of intentionally euthanizing or sterilizing an animal without proper authority would be charged with a new Class B misdemeanor - subsequent offenses would be a new Class A misdemeanor. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

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.

SPD notes in FY 2018, the Trial Division did not open any cases under charge code 578.018.

**Oversight** assumes there will be minimal (if any) new cases as a result of this proposal, based on the SPD not opening any cases under charge code 578.018 in FY 2018. Therefore, Oversight will not reflect a fiscal impact on the SPD on this fiscal note.

Officials from the **City of Independence Police Department** estimates the fiscal impact of this proposal to be as follows:

- Animal control services are operated by the City of Independence Police Department. Changing the text to "duly authorized law enforcement official" would require sworn officers of the Independence Police Department (IPD) to apply for and coordinate all warrants on behalf of the Animal Services unit. This would increase the cost of processing each search warrant by more than \$400. Additionally, it would create a manpower issue for police detectives, who are already overwhelmed with high priority cases, property crimes and felony investigations. Animal Services Officers have historically handled this responsibility in our city and this system works very well without becoming a burden on criminal investigators.

ASSUMPTION (continued)

- According to the City of Independence Law Department, the 16th Judicial Circuit Court of Jackson County is already overwhelmed with felony cases. It is anticipated that the processing of the search warrant, including the disposition hearing, through the Circuit Court would significantly increase the time to resolve the potential life and death situation for animals involved. Currently, Animal Services can typically prepare a search warrant and have it signed in less than twenty-four hours. It is anticipated to take five or more days with the proposed changes.

Officials from the **St. Louis County Police Department** assume this proposal would require the department have a police officer apply for all animal confiscation warrants rather than animal control officers. While the police department currently assists the health department with these cases, the animal control officers would no longer be able to function without police involvement.

The proposal also removes the ability to post search warrant materials on the property. The proposal would require that a resident of the property be served with the appropriate materials. In some cases this may make executing the search warrant impossible.

The proposal would change the usual disposition hearing following an animal confiscation from thirty days to ten days. There are serious implications of moving the hearing to ten days rather than thirty. For example, many tests completed by the veterinarian and lab will not be completed within ten days. If the tests are completed in the rushed time frame, the case may be found in favor of the pet owner and the police would have wasted time and manpower.

The increase in man hours, paperwork and overtime are difficult to estimate. The police officer's process, if involved in animal confiscation case would be as follows:

The officer would have to compile evidence and apply for a warrant. After approval, the officer would then have to respond to the location where the animal is being maintained with the health department and animal control to serve the warrant. If the owner of the animal is not on-scene, the officer must locate a resident of the property and serve them in person, which may be impossible. After completing all necessary reports and having them approved, the officer would have to respond to a disposition hearing within ten days. During this process, the officer involved would no longer be able to respond to other calls and additional officers would have to complete the work the missing officer would generally complete, generating overtime costs.

ASSUMPTION (continued)

According to an officer assigned to the Problem Properties Unit, the current process to confiscate animals takes an average of 24 to 40 hours to complete from start to finish. If the process were changed, there could be an increase of hours worked.

Officials with the **Joplin Police Department**, in conjunction with the **Jasper County Health Department** assume this proposal could have increased costs to the police department because of increased involvement in these types of cases. The Jasper County Health Department also notes there would be increased costs for the shelter and care of any animal confiscated during an arrest due to having to care for the animal until the owner is adjudicated. The health department notes it is difficult to determine a cost.

**Oversight** assumes local law enforcement agencies could incur increased costs related to this proposal; therefore, Oversight will reflect an “Unknown” cost to law enforcement agencies on the fiscal note.

Officials from the **Department of Corrections, Attorney General’s Office, Office of Prosecution Services, Office of the State Courts Administrator, Department of Public Safety - Missouri Highway Patrol, Department of Health and Senior Services, St. Louis County of Justice Services** and **Jackson County Sheriff’s Office** each assume the proposal will have no fiscal impact on their respective organizations.

**Oversight** notes that the agencies mentioned above plus the Department of Agriculture have each stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note to the state for these agencies.

Oversight assumes any confiscated animal care costs, should the animal owner be acquitted, has an inability to pay before the initial disposition hearing, or upon conviction, would be incurred by veterinarians, local government dog pounds, animal shelters, animal rescue facilities, or another third party with existing animal care facilities approved by the court.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other law enforcement agencies were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to [www.legislativeoversight.mo.gov](http://www.legislativeoversight.mo.gov).

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Revenue</u> - Animal Rescue Facilities - Bond or security for animal care costs from the animal owner	Unknown	Unknown	Unknown
<u>Cost</u> - Animal Rescue Facilities - Care of animals held until final disposition of charges and acquittal or inability to pay	(Unknown)	(Unknown)	(Unknown)
<u>Cost</u> - Law Enforcement Agencies - Increased duties in the animal confiscation process	(Unknown)	(Unknown)	(Unknown)
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

FISCAL IMPACT - Small Business

Small business animal shelters and veterinary facilities might incur additional costs as a result of this proposal.

FISCAL DESCRIPTION

Currently, any public health official or law enforcement officer may seek a warrant to inspect, care for, or impound neglected or abused animals. This act instead requires that such warrant only be sought by a law enforcement officer, and is to confiscate, rather than impound animals. A person acting under the authority of a warrant is required to appear at a disposition hearing before the court through which the warrant was issued within 10 days of the confiscation, rather than within 30 days of the filing of the request, for the purpose of granting immediate disposition of the animals.

FISCAL DESCRIPTION (continued)

An animal cannot be sterilized before the completion of the disposition hearing unless it is necessary to save life or relieve suffering.

Third parties approved by the court may care for confiscated animals. The owner of any animal that has been confiscated is not responsible for the animal's care and keeping prior to a disposition hearing if the owner is acquitted or there is a final discharge without conviction.

This act also provides that anyone claiming an interest in the confiscated animal may prevent the disposition of the animal after the disposition hearing and until final judgement, settlement, or dismissal of the case by posting reasonable bond or security within 72 hours of the disposition hearing in an amount sufficient to provide for the animal's care and keeping. The bond or security amount shall also be consistent with the fair market cost of boarding such an animal in an appropriate retail boarding facility.

An owner of any humanely killed animal cannot recover damages related to the value of the animal if a veterinarian determines the animal was diseased or disabled beyond recovery for any useful purpose. Damages are also recoverable if the animal owner fails to post a bond or security after being notified of the confiscation and after the disposition hearing.

All animals confiscated shall receive proper care as determined by state law and regulations. Any facility or organization where an animal is placed shall be liable to the animal owner for damages for any negligent act or abuse of the animal which occurs while the animal is in the facility or organization's care, custody, and control.

In the event an animal owner is not liable for the costs incurred while charges were pending, the costs of care and the liability for the life or death of the animal and any medical procedures performed are the responsibility of the confiscating agency . An animal owner may demand the return of the animal held in custody if he or she posted a sufficient bond and is acquitted or there is a final discharge without a conviction. Any entity with care, custody, and control of the animal shall immediately return the animal to the owner upon demand and proof of the acquittal or final discharge without conviction. The animal owner is not liable for any costs incurred relating to the placement or care of the animal while the charges were pending unless there is a settlement agreement, consent judgment, or a suspended imposition of sentence.

This act creates a penalty for any person or entity that intentionally euthanizes or sterilizes an animal that such person or entity is not permitted to euthanize or sterilize. Each individual animal for which a violation occurs is a separate offense. The penalty is a Class B misdemeanor for the first offense and any second or subsequent offense is a Class A misdemeanor.

FISCAL DESCRIPTION (continued)

Finally, this act provides that the confiscation of dogs that were involved in dog fighting shall be carried out in the same manner set forth in the act for neglected or abused animals.

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  
Office of the State Courts Administrator  
Department of Corrections  
Office of Prosecution Services  
Office of the State Public Defender  
Department of Public Safety - Missouri Highway Patrol  
Attorney General's Office  
Department of Health and Senior Services  
St. Louis County Police Department  
City of Independence Police Department  
Jackson County Sheriff's Office  
Joplin Police Department  
Jasper County Health Department  
St. Louis County of Justice Services



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