

Colorado Legislative Council Staff Fiscal Note
**STATE and LOCAL
 FISCAL IMPACT**

Drafting Number: LLS 08-0173
Prime Sponsor(s): Rep. Stafford

Date: February 12, 2008
Bill Status: House Judiciary
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TITLE: CONCERNING TREATMENT THAT MAY RESULT IN HARM TO CERTAIN ANIMALS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
State Revenue	Potential Increase	
Cash Funds - Fines Collection Cash Fund		
Transfers or Diversions		
Transfer from the General Fund to the Capital Construction Fund	(\$125,165)	\$0
State Expenditures		
General Fund	\$0	\$28,758
Cash Funds - Capital Construction Fund Appropriation to the Corrections Expansion Reserve Fund	125,165	0
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: Upon the signature of the Governor, or upon the bill becoming law without his signature.		
Appropriation Summary for FY 2008-2009: See State Appropriations section		

Summary of Legislation

This bill permits the owner of a companion or assistance animal to recover damages (up to \$25,000 for each animal) for loss of companionship, under certain circumstances, if the animal is tortured or needlessly tormented or killed. Owners may also recover damages, under certain circumstances, if a veterinarian's negligence causes injury or death to the animal. The bill requires a veterinarian, except in emergency situations, to get informed consent from an animal's owner prior to performing a service that involves serious risk to the animal. The veterinarian licensing board may discipline a veterinarian who does not comply with the informed consent requirement.

Under the bill, a veterinarian who complies with the informed consent requirement is not liable for damages. It also provides immunity from liability for negligence resulting in injury or death of a companion or assistance animal for veterinarians who do not inoculate the animal if they certify that inoculation is contraindicated. The bill requires licensing authorities to accept such certification from a veterinarian in lieu of evidence of vaccination for the purpose of issuing a license for an animal.

Finally, the bill adds knowingly, recklessly, or with criminal negligence causing serious physical harm to an assistance dog or service animal to the existing class 6 felony of aggravated cruelty to animals.

State Revenue

Under current law, individuals who are convicted of a felony may be required to pay a fine ranging from \$1,000 to \$1,000,000, depending on the class of the crime committed. This bill adds elements to an existing class 6 felony, for which the court may impose a fine of \$1,000 to \$100,000. If the court imposes a fine for this felony, the bill will generate additional state revenue. Any new fine revenue will be deposited into the Fines Collection Cash Fund. Fine revenue cannot be estimated because courts have discretion in the imposition of fines.

Transfers or Diversions

Pursuant to the requirements of Section 2-2-703, C.R.S., and Section 17-1-116, C.R.S., this bill transfers \$125,165 from the General Fund to the Capital Construction Fund in FY 2008-09, then appropriates the money to the Corrections Expansion Reserve Fund. Thus, this amount will not be available for General Fund appropriations. For a further explanation of this transfer and appropriation, see the section related to the five-year impact on correctional facilities.

General Fund for Highways and Capital Construction. Based on the December 2007 Legislative Council Staff revenue forecast, there is enough revenue to fully fund the diversion to the Highway Users Tax Fund (HUTF) under the provisions of SB 97-1 for the next five fiscal years and have additional revenue flow into the General Fund excess reserve. Under the provisions of HB02-1310, revenue in the General Fund excess reserve is diverted two-thirds to the HUTF and one-third to capital construction. Construction costs for new prison beds are funded outside of the 6 percent appropriations limit. Therefore, the increased expenditure needed to fund this element of the bill would serve to reduce the amount of money available for diversion to the HUTF and to capital construction. In FY 2008-09, this amounts to \$83,443 from the HUTF and \$41,722 from capital construction.

State Expenditures

Department of Corrections. Admissions to the Department of Corrections (DOC) for FY 2006-07 included 3 offenders with class 6 felony convictions for cruelty to animals. For one offender, cruelty to animals was the most serious offense. An average of one new offender each year for the past five years has been admitted to the DOC for cruelty to animals. It is anticipated that the change proposed in HB 08-1308 will increase new admissions by one every four years. The average length of incarceration for a class 6 felony, according to the December 2007 Colorado Division of Criminal Justice Adult Prison and Parole Population Projections, is 13 months.

Five-year fiscal impact on correctional facilities. Section 2-2-703, C.R.S., specifies that no bill can be passed by the General Assembly which results in a net increase in periods of imprisonment in ***state correctional*** facilities unless it contains an appropriation of money sufficient to cover the increased capital construction costs and operating costs in each of the first five fiscal years of the bill. Sections 17-1-102, 104.9. and 105.5, C.R.S., authorize the department to permanently place inmates classified as medium custody and below in private contract prisons. Inmates classified higher than medium custody cannot be placed in private contract prisons, except under "correctional emergency" conditions. *The fiscal note assumes that the new inmates identified in this bill will be placed in state correctional facilities, recognizing that some of these inmates could be placed in private contract prisons.*

If an inmate is placed in a state correctional facility, the additional construction costs are estimated to be \$125,165 per inmate bed. Operating costs are \$78.79 per bed per day or \$28,758 per bed per year. It should be noted that the construction costs reflect the funding needed to construct inmate beds in the fiscal year prior to when additional offenders are expected to enter the system. This lag accounts for the estimated time for criminal filing, trial, disposition, and sentencing. If an inmate is placed in a private contract prison, the state incurs no additional capital construction costs; however, the state pays private prisons at a rate of \$52.69 per bed per day and the department incurs other costs of \$5.15 per bed per day for inmates placed in private prisons. The total cost to the department is therefore \$21,112 per private prison bed per year.

Prison bed construction is funded through a General Fund transfer to the Capital Construction Fund, which is then transferred to the Corrections Expansion Reserve Fund. These appropriations are not subject to the 6 percent statutory General Fund appropriations limit. Money transferred to the Corrections Expansion Reserve Fund is typically appropriated each year for a variety of capital projects requested by the Department of Corrections; money is not held indefinitely for the construction of a new prison. General Fund appropriations for operating costs are subject to the 6 percent limit.

Table 1. Five-Year Fiscal Impact On Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2008-09	0.0	\$125,165	\$0	\$125,165
FY 2009-10	1.0	\$0	\$28,758	\$28,758
FY 2010-11	0.1	\$0	\$2,876	\$2,876
FY 2011-12	0.0	\$0	\$0	\$0
FY 2012-13	1.0	\$125,165	\$0	\$125,165
Total		\$250,330	\$31,634	\$281,964

Judicial Branch. The bill increases the damages that may be awarded to an owner whose companion or assistance animal has been harmed or killed, which is expected to result in additional civil cases being filed with the district courts. Given that this bill creates a new cause of action, it is not possible to predict how many cases will be filed and the fiscal impact to the civil courts is conditional.

It is also expected that a small number of criminal charges will be filed under the provision of the bill that adds to the existing class 6 felony of aggravated cruelty to animals. Due to the low number of criminal cases anticipated, the Judicial Branch will address them using existing resources.

Department of Public Health and Environment. This bill makes changes to statutes that address the vaccination of pets. There is likely to be an impact to the Department of Public Health and Environment (CDPHE), but it is not possible to determine the exact cost at this time. More unvaccinated pets could result in more cases of rabies, which would require effort by CDPHE to manage the situation in terms of medical outreach and information to healthcare workers, local animal control agencies, and the public.

Local Government Impact

Local law enforcement agencies and district attorneys would be required to enforce the enhanced law against cruelty to animals, which would create additional costs to those agencies. However, the number of cases is estimated to be low and it is assumed that they will be absorbed within existing resources.

Local health and animal control agencies will also likely see an increased workload due to higher numbers of rabies cases resulting from unvaccinated animals.

State Appropriations

For FY 2008-09, HB 08-1308 requires a General Fund transfer of \$125,165 to the Capital Construction Fund and an appropriation of the same amount to the Corrections Expansion Reserve Fund. The bill also requires appropriations to cover capital construction and operating costs in the Department of Corrections for the period from FY 2009-10 to FY 2012-13. These costs are identified in Table 1.

Departments Contacted

Corrections
Regulatory Agencies

Judicial

Public Health and Environment