

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 11-0056
Prime Sponsor(s): Rep. McCann

Date: January 20, 2011
Bill Status: House Agriculture
Fiscal Analyst: Jessika Shipley (303-866-3528)

TITLE: CONCERNING THE CLASSIFICATION OF CERTAIN UNSANCTIONED SPORTING EVENTS AS CRUELTY TO ANIMALS.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
Cash Funds		
Fines Collection Cash Fund	less than \$5,000	less than \$5,000
State Transfers or Diversions		
Transfer from the General Fund to the Capital Construction Fund	(\$87,131)	
State Expenditures		
General Fund		\$28,011
Cash Funds - Capital Construction Fund appropriation to the Corrections Expansion Reserve Fund	\$87,131	
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2011-2012: See State Appropriations section.		
Local Government Impact: Minimal		

Summary of Legislation

The existing crime of cruelty to animals is expanded to include the intentional dragging of a bovine (cow, steer, bull, heifer, ox, or bison) by its tail or the intentional lassoing or roping of the legs of an equine (horse, pony, donkey, mule, or hinny), for the purpose of entertainment, sport, or contest. A first offense of cruelty to animals is a class 1 misdemeanor. A second or subsequent offense is a class 6 felony.

State Revenue

State law specifies that the fine penalty is \$500 to \$,5000 for a class 1 misdemeanor and \$1,000 to \$100,000 for a class 6 felony. Unless otherwise provided by law, the fines are to be deposited in the state Fines Collection Cash Fund for annual appropriations to cover associated administrative and personnel costs. All unexpended balances of the cash fund revert to the state General Fund at the end of each fiscal year. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to the cash fund and the General Fund cannot be determined.

State Transfers or Diversions

Pursuant to the requirements of state law, this bill transfers \$87,131 from the General Fund to the Capital Construction Fund in FY 2011-12, 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.

State Expenditures

Department of Corrections (DOC). The DOC requires additional General Fund expenditures of \$87,131 in FY 2011-12 and \$28,011 in FY 2012-13. Approximately three offenders each year are sentenced to prison for the class 5 or class 6 felony offenses of cruelty to animals or aggravated cruelty to animals. The addition of two new criteria for committing the crime of cruelty to animals is expected to result in one new class 6 felony commitment to the DOC every three years. The average sentence for a class 6 felony is 12.2 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 allocated between state correctional facilities and private contract prisons according to historical patterns.***

If an inmate is placed in a state correctional facility, the additional construction costs are estimated to be \$130,046 per inmate bed. Operating costs are \$88.59 per bed per day or \$32,335 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 a rate of \$52.69 per bed per day for inmates placed in private prisons. The total cost to the department is therefore \$19,232 per private prison bed per year. Departmental data indicates that 33 percent of class 6 felonies are housed in private prisons, and both the construction and operating costs presented in Table 1 have been prorated accordingly.

Table 1. Five-Year Fiscal Impact On Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2011-12	0.0	\$87,131	\$0	\$87,131
FY 2012-13	1.0	0	28,011	28,011
FY 2013-14	0.02	0	560	560
FY 2014-15	0.0	87,131	0	87,131
FY 2015-16	1.0	0	28,011	28,011
Total		\$174,262	\$56,582	\$230,844

Local Government Impact

The penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$72 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails a daily rate of \$50.44 to house state inmates. It is assumed that the impact of any new misdemeanor convictions will be minimal and will not create the need for additional county jail space.

State Appropriations

For FY 2011-12, the DOC requires an appropriation of \$87,131 from the Corrections Expansion Reserve Fund, plus the other five-year costs detailed in Table 1.

Departments Contacted

Corrections Judicial