

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0563-01  
Bill No.: SB 184  
Subject: Agriculture and Animals; Courts; Crimes and Punishment; Law Enforcement  
 Officials and Agencies; Liability; Search and Seizure  
Type: Original  
Date: February 6, 2009

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Bill Summary: The proposal creates penalties for owners of dogs that cause injury and creates an absolute defense against civil liability or prosecution for killing or injuring certain threatening dogs.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<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 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</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 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Local Government</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Agriculture, Department of Public Safety – Missouri State Highway Patrol, – Director’s Office,** and the **Office of Prosecution Services** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Department of Corrections (DOC)** assume the penalty provision component of this bill, resulting in potential fiscal impact for DOC, is for up to a class C felony.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in direct offender cost either through incarceration (FY08 average of \$15.64 per offender, per day or an annual cost of \$5,709 per inmate) or through supervision provided by the Board of Probation and Parole (FY08 average of \$2.47 per offender, per day or an annual cost of \$902 per offender).

The need for capital improvements is not anticipated at this time. It must be noted that the cumulative effect of various new legislation, if passed into law, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eighteen (18) persons would have to be incarcerated per each fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

ASSUMPTION (continued)

Officials from the **Office of Prosecution Services (OPS)** assume the potential fiscal impact on county prosecuting attorneys will depend on the extent to which law enforcement agencies choose to enforce this provision and/or are able to enforce this provision. If law enforcement agencies make arrests under this provision, there may be an impact based on the additional cases that may be filed. OPS assumes this legislation would not have any significant fiscal impact on the OPS.

**Oversight** assumes county prosecutors could absorb any increase in cases referred to prosecutors within existing resources.

Officials from the **Office of the State Public Defender (SPD)** assume increasing penalties on existing crimes, or creating new crimes, will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

**Oversight** assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Officials from the **Boone County Sheriff's Department** assume they will incur costs for the acquisition of animal apprehension equipment for county sheriff's deputies as a result of the provisions in Section 273.038. Costs will be incurred in salary and tuition fees for training deputies in the proper use of apprehension equipment. Officials assume costs will be incurred by county sheriffs for the purchase of suitable and humane structures to hold/house seized animals as well as costs to feed and care for seized animals, including paying the salary of an individual within a sheriff's department designated to care for the animals. Officials assume these costs will be substantial and ongoing.

**Oversight** assumes county sheriffs will incur increased costs as a result of the proposal. Oversight assumes the statewide costs to be unknown, as the number of animals that may be seized can not be determined.

**Officials from the Buchanan County Sheriff's Department, Clark County Sheriff's Department, Greene County Sheriff's Department, Jackson County Sheriff's Department, Platte County Sheriff's Department, and the St. Louis County Police Department did not respond to Oversight's request for fiscal impact.**

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>GENERAL REVENUE FUND</b>			
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>	<u>(Less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>POLITICAL SUBDIVISIONS</b>			
<u>Costs – County Sheriff’s Departments</u>			
Animal hold costs (§273.038)	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS</b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>	<b><u>(Unknown)</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Under the proposed legislation, a person has an absolute defense against civil liability or criminal prosecution for killing or injuring a dog, if such person’s actions were based on the reasonable belief that he or she, or another person, was in imminent danger of being harmed by the dog. (Section 273.033)

FISCAL DESCRIPTION (continued)

The owner of a dog that bites, without substantial provocation, a person while in a public or lawfully in a private place shall be strictly liable for damages to the bitten individual. Owners of such dogs shall also be strictly liable for any damage incurred to property or livestock by their dogs. If a dog owner is found liable by a court for such damages, the owner shall also be assessed a civil fine up to \$1,000. (Section 273.036)

When a dog that has previously bitten a person or domestic animal without provocation, subsequently bites a person again, the owner shall be guilty of a class B misdemeanor. If the offense results in severe injury it shall be a class A misdemeanor and if the previous biting episode also resulted in severe injury, it shall be a class D felony. If the offense results in death it shall be a class C felony. Any such dog, or a dog that inflicts severe injury or death on the first biting occasion, shall be seized by the animal control authority or county sheriff who shall notify the dog's owner in writing. The dog shall be impounded for ten business days after notice has been provided to the owner, after which time the dog shall be destroyed. (Section 273.038)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

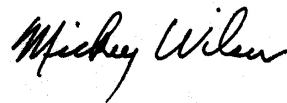
SOURCES OF INFORMATION

Department of Agriculture  
Office of State Courts Administrator  
Department of Corrections  
Department of Public Safety  
    – Missouri State Highway Patrol  
    – Director's Office  
Office of Prosecution Services  
Office of the State Public Defender  
Boone County Sheriff's Department

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**NOT RESPONDING**

**Buchanan County Sheriff's Department  
Clark County Sheriff's Department  
Greene County Sheriff's Department  
Jackson County Sheriff's Department  
Platte County Sheriff's Department  
St. Louis County Police Department**



Mickey Wilson, CPA  
Director  
February 6, 2009