

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0900S.01I
Bill No.: SB 132
Subject: Animals; Law Enforcement Officers and Agencies
Type: Original
Date: March 6, 2023

Bill Summary: This proposal modifies and creates new provisions relating to confiscation of animals.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue	(Unknown)	(Unknown)	(Unknown)

*Oversight assumes the negative “Unknown” fiscal impact will be less than \$250,000

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other State Funds</u>	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Agriculture, Department of Corrections, Office of the State Courts Administrator, Missouri Office of Prosecution Services, Department of Health and Senior Services** and **Office of the State Public Defender** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **Missouri Highway Patrol (MHP)** assume the fiscal impact to the Patrol is unknown due to the many variables associated with this proposed legislation. MHP notes, if executing a warrant from the court, with an affidavit outlining probable cause to believe a violation has occurred, as outlined in Sections 578.018.1 and 578.018.5, the Patrol, as a confiscating agency, could still be liable for significant costs. The financial liability could vary by the type and amount of animals confiscated as well as the time it takes to adjudicate a criminal case. Depending on the jurisdiction, a criminal case may take more than a year to become finalized, not including any appellate action(s). In addition, the proposed legislation may create a significant legal hurdle to finding any individual liable because the hearing must be held within ten days.

Oversight does not have information to the contrary and therefore, Oversight will reflect an “Unknown” cost to MHP on the fiscal note. For fiscal note purposes, Oversight will assume the unknown fiscal impact will be less than \$250,000.

Officials from the **Newton County Health Department, Phelps County Sheriff, St. Joseph Police Department** and **Kansas City Police Department**, each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **St. Louis County Police Department** assume this proposal would allow for animal control officers or law enforcement officers to apply for animal confiscation warrants, however service of the actual warrant would require the presence of a police officer. While the Police Department currently assists the health department with these cases, the animal control officers would no longer be able to solely 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 man power.

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

The officer would have to compile evidence and apply for a warrant (in some situations). 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.

The current process followed to confiscate animals takes an average of 24-40 hours to complete from start to finish. If the process were changed as the bill proposes, there could be an increase of hours worked which could amount to a significant, but unknown cost.

Officials from the **Branson Police Department** assume there is a potential for negative fiscal impact for agencies through no fault of their own. In the case of a sympathetic jury, a technicality or an overloaded prosecutor's office, a defendant could be found not-guilty, have charges dismissed, etc.; yet, the agency did everything correctly. The agency should not have to pay for the care and boarding of the animal for doing its job and trying to protect the animal. If a judge finds probable cause to issue the warrant that should be sufficient to relieve the agency from financial liability in the case.

Oversight assumes there could be some costs to local law enforcement agencies to implement the provisions in this proposal; therefore, Oversight will reflect an "Unknown" cost to these agencies on the fiscal note.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other county health departments and law enforcement agencies were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE FUND			
<u>Cost</u> – MHP – Increased duties in the animal confiscation process	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
<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	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<u>Cost</u> - Law Enforcement Agencies - Increased duties in the animal confiscation process	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This act modifies and creates new provisions relating to confiscation of animals.

Currently, any public health official or law enforcement officer may seek a warrant to inspect, care for, or impound neglected or abused animals. Under this act, such warrant is to confiscate, rather than impound animals. All warrants shall be served in the presence of a law enforcement official.

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. 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 not 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.

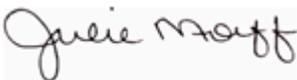
In the event an animal owner is not liable for the costs incurred while charges were pending, the costs of care and the liability for the life or death of the animal and any medical procedures performed are the responsibility of the confiscating agency. An animal owner may demand the return of the animal held in custody if he or she posted a sufficient bond and is acquitted or there is a final discharge without a conviction.

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.

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
Department of Corrections
Office of the State Public Defender
Office of the State Courts Administrator
Missouri Office of Prosecution Services
Department of Public Safety - Missouri Highway Patrol
Phelps County Sheriff
Kansas City Police Department
St. Louis County Police Department
Newton County Health Department
Branson Police Department



Julie Morff
Director
March 6, 2023



Ross Strobe
Assistant Director
March 6, 2023