



**Colorado
Legislative
Council
Staff**

HB16-1348

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0482
Prime Sponsor(s): Rep. Ryden

Date: March 31, 2016
Bill Status: House Judiciary
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BILL TOPIC: CRIME OF CRUELTY TO LAW ENFORCEMENT SERVICE ANIMAL

Fiscal Impact Summary	FY 2015-2016	FY 2016-2017	FY 2017-2018
State Revenue			
Cash Funds	Potential increase.		
State Expenditures	Minimal workload increase.		
TABOR Impact	Potential increase.		
Appropriation Required: None.			
Future Year Impacts: Ongoing potential revenue increase.			

Summary of Legislation

This bill creates the crime of cruelty to a law enforcement service animal, which is an animal used to aid in the performance of official duties by a peace officer or law enforcement agency. A first offense is a mandatory class 6 felony and a subsequent offense is a class 5 felony. A court is prohibited from accepting a guilty plea to an offense that carries a penalty lower than a felony for cruelty to a law enforcement service animal offense.

Background

Under current law, service animals include animals that are used for official duties by a peace officer, law enforcement agency, fire department, fire protection district, or governmental search and rescue agency. A charge of cruelty to animals, including service animals, is a class 1 misdemeanor; a subsequent conviction is a class 6 felony. The offense of aggravated cruelty to animals is a class 6 felony for a first offense and a class 5 felony with a mandatory fine of \$1,000 and anger management treatment for subsequent convictions. If convicted, the court must order the person to make restitution to the agency or owner of the animal for any veterinary bills and replacement costs of the animal if it is disabled or killed as a result of the incident.

Comparable Crime

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis

for the offense. This bill creates a class 6 felony for cruelty to a law enforcement service animal, an offense that can be charged under current law as a class 1 misdemeanor. According to the Judicial Department, there were no charges filed under existing law between January 1, 2013, and March 2, 2016, so no demographic information is available. Because no charges have been filed in the past three years, future charges are expected to be minimal.

State Revenue

Beginning in the current FY 2015-16, this bill may increase state revenue credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 6 and a class 5 felony is \$1,000 to \$100,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed in 2015 and no recent convictions for cruelty to service animals, the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

TABOR Impact

This bill may increase state revenue from fines, which may increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

State Expenditures

This bill may increase workload for multiple state agencies as explained below.

Trial Courts. This bill may increase workload for trial courts in the Judicial Department and because the offense will have a mandatory felony penalty, defendants may be more likely to take the case to trial. As noted in the Comparable Crimes section, charges are expected to be minimal and any increase in workload can be accomplished within existing appropriations.

Office of the State Public Defender and Office of Alternate Defense Counsel. The bill may increase workload or costs for the Office of the State Public Defender and Office of Alternate Defense Counsel to provide representation for any persons deemed to be indigent. The fiscal note assumes any such increases are minimal and will not require an increase in appropriations for any agency within the Judicial Department.

Department of Corrections. To the extent that any convictions of cruelty to law enforcement service animals occur and a person is sentenced to a term of incarceration, costs for the Department of Corrections (DOC) will increase. For informational purposes, offenders placed in a private contract prison cost the state about \$59.90 per offender per day, including the current daily rate of \$56.02 and an estimated \$3.88 per offender per day for medical care provided by the DOC. No impact is expected in the first year because of the estimated time for criminal filing, trial, disposition, and sentencing. The fiscal note assumes that any costs in future years arising under House Bill 16-1348 will be requested through the annual budget process.

Local Government Impact

Misdemeanor offenses in county courts. Because this bill increases the penalty for an offense from a misdemeanor to a mandatory felony, the bill may increase workload for district attorneys. Under current law, a court may sentence an offender to jail for a class 6 felony for a

period of between 12 and 18 months. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. It is assumed that the impact of this bill will be minimal.

Denver County Court. The court may try fewer misdemeanor cases under the bill resulting in a decrease in workload and revenue for the Denver County Court, managed and funded by the City and County of Denver.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Corrections
Public Safety

Information Technology
Sheriffs

Judicial