

**SENATE APPROPRIATIONS COMMITTEE
FISCAL NOTE**

BILL NO. House Bill 1238

PRINTER NO. 1565

AMOUNT

Minimal Fiscal Impact

FUND

General Fund – Local Government Funds

DATE INTRODUCED

April 17, 2017

PRIME SPONSOR

Representative Stephens

DESCRIPTION AND PURPOSE OF BILL

House Bill 1238 amends Titles 3 (Agriculture), 18 (Crimes and Offenses), 22 (Detectives and Private Police), 34 (Game), and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, to repeal and restructure the animal cruelty provisions of Section 5511 and related sections of Title 18.

The key components of this legislation repeal the following sections of Title 18 and restructures them under a new Subchapter B (Cruelty to Animals):

- § 5511. Cruelty to animals;
- § 5511.1. Live animals as prizes prohibited;
- § 5511.2. Police animals; and
- § 5511.3. Assault with a biological agent on animal, fowl or honey bees.

The new Subchapter B (Cruelty to Animals) is structured into three (3) broad offenses of animal cruelty. They are as follows:

- “Neglect” (new § 5532), which is defined as failing to provide an animal to which the person has a duty of care, whether belonging to himself or otherwise, necessary food and potable water, clean and sanitary shelter, or necessary veterinary care. The offense of “neglect” is graded as a summary offense, or a misdemeanor of the third degree if the violation causes bodily injury to the animal or places the animal at imminent risk of serious bodily injury;
- “Cruelty” (new § 5533), which is defined as intentionally, knowingly, or recklessly ill-treating, overloading, beating, abandoning, or abusing an animal. The offense of “cruelty” is graded as a summary offense, or a misdemeanor of the second degree if the violation causes bodily injury to the animal or places the animal at imminent risk of serious bodily injury;

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- “Aggravated cruelty” (new § 5534), which is defined as intentionally or knowingly torturing an animal or violating § 5532 (relating to neglect of animal) or § 5533 (relating to cruelty to animal) causing serious bodily injury to the animal or the death of the animal. The offense of “aggravated cruelty” is graded as a felony of the third degree.

The legislation breaks out certain other provisions related to cruelty to animals that were previously contained within the sections that are being repealed in this legislation and creates new sections for each. Exemptions in current law for activity undertaken during normal agricultural operations, as defined in the legislation, are retained.

Specifically, this legislation creates individual section within the new Subchapter B that addresses all of the following:

- Attack of guide dog – (new § 5535), which is defined as killing, maiming or disfiguring a guide dog of an individual who is blind, a hearing dog of an individual who is deaf or audibly impaired or a service dog of an individual who is physically limited without provocation by the guide, hearing or service dog or the individual. This offense is graded as a misdemeanor of the third degree. The section provides for certain penalties, including civil penalties and restitution;
- Tethering of unattended dog – (new § 5536) and sets forth rebuttable presumptions and exemptions. This section also provides that veterinarians who report suspected animal cruelty in good faith and in the normal scope of business shall be immune from liability for that conduct;
- Provides in new § 5557 for civil immunity from suits for damages that arise from the conduct of humane society police officers in the normal course of business;
- Neither § 5556 nor § 5557 provide immunity for actions or omissions that constitute gross negligence or willful, wanton, or reckless conduct;
- Amends Chapter 37 of Title 22 (Detectives and Private Police) to require that applicants for appointment as a humane society police officer submit proof of qualification to the District Attorney in addition to the court of common pleas, as currently required. Allows the court the discretion to make or decline the appointment after reviewing the District Attorney’s recommendation;
- Requires forfeiture of the animals of anyone convicted of a felony-level violation of the statute to a society for the prevention of cruelty to animals. Allows forfeiture of the animals upon conviction for other offenses; and
- Renumbers numerous provisions in current law, but does not substantively change them.

This act shall take effect in 60 days.

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FISCAL IMPACT:

This legislation updates and clarifies existing animal abuse statutes and provides for penalties that can range from 90 days in jail and a \$300 fine to seven (7) years in jail and a \$15,000 fine.

According to the Pennsylvania Commission on Sentencing, a Sentence Report by Offense for 2016 indicates there were approximately 90 criminal convictions for cruelty to animals, where the grading of the offense was a misdemeanor or felony. Of the total convictions, 8% of the offenders were sentenced to state prison and 24% received a county jail sentence.

Although this legislation could potentially increase the number of offenders being sentenced to state prison or a county jail, it is difficult to quantify the number of cases that would actually be affected.

Enactment of this legislation may have a fiscal impact on Commonwealth and County funds, but it's assumed that it would be minimal due to the low percentage of offenders that currently get a prison or jail sentence for cruelty to animal type offenses.