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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/13/13  
**LAST UPDATED** 02/19/13     **HB** \_\_\_\_\_

**SPONSOR**    SJC \_\_\_\_\_

**SHORT TITLE**    Animal Cruelty Definitions & Penalties     **SB** 83/SJCS \_\_\_\_\_

**ANALYST**    Trowbridge \_\_\_\_\_

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Minimal*	Minimal*	Minimal*	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

\*See Fiscal Implications

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Public Defender Department (PDD)  
 Department of Public Safety (DPS)  
 New Mexico Corrections Department (NMCD)  
 Department of Game and Fish (DGF)  
 Administrative Office of the District Attorneys (AODA)  
 Human Services Department (HSD)

### SUMMARY

#### Synopsis of Bill

The Senate Judiciary Committee substitute for Senate Bill (SB 83) proposes to change what constitutes the crimes of cruelty to animals and extreme cruelty to animals. This bill amends Section 30-18-1, NMSA 1978, and defines cruelty to animals as a person recklessly mistreating, injuring or tormenting an animal; or recklessly or intentionally abandoning an animal under that person's custody or control; or recklessly or intentionally failing to provide necessary sustenance to an animal under that person's custody or control. The bill states that whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Upon a fourth or subsequent conviction for committing cruelty to animals, the offender would be guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978. SB 83 also states that whoever commits cruelty to animals that causes death or great bodily harm to the animal is guilty of a fourth degree

felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978. Additionally, the bill requires psychological counseling for persons convicted of extreme cruelty to animals rather than being discretionary for that offense. The bill includes provisions for determining what constitutes commonly accepted veterinary practice, rodeo practice, or animal husbandry practice as a threshold to the filing of criminal charges. The bill assigns these tasks to relevant boards. The bill also adds dairies to the existing exemption in the law which already indicates that the crimes of cruelty and extreme cruelty to animals do not apply to the treatment of animals used on farms and ranches in accordance with commonly accepted agricultural animal husbandry practices.

The bill adds a list of definitions to the crimes of cruelty and extreme cruelty to animals:

- “abandoning” means leaving or casting out an animal and failing to provide or ensure necessary sustenance;
- “animal” means captive invertebrates and all vertebrates except for humans and non captive snakes;
- “captive” means subject to habitual confinement and control by one or more persons;
- “extreme cruelty to animals” means a person intentionally or maliciously mistreating an animal or maliciously killing an animal without lawful justification;
- “great bodily harm” means an injury that creates a high probability of death, that causes serious disfigurement or that results in permanent or protracted loss or impairment of the function of any member or organ of the body;
- “lawful justification” means humanely destroying a sick or injured animal or protecting a person or animal from death or injury due to an attack by another animal;
- “mistreating” means torturing, mutilating or poisoning;
- “recklessly” means acting with knowledge that the person's actions create a substantial and foreseeable risk, disregarding the risk and being wholly indifferent to the consequences and to the welfare and safety of the animal;
- “sustenance” means food, water or shelter provided that shelter with regard to livestock shall be in keeping with commonly accepted agricultural animal husbandry practices; and
- “tormenting” means causing great distress or agitation or inflicting physical pain or mental anguish.

The bill, if enacted, would take effect July 1, 2013.

### **FISCAL IMPLICATIONS**

The Administrative Office of the Courts (AOC) indicates there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary will be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

The Public Defender Department (PDD) states that while it is likely that it would be able to absorb some new cases under the proposed law, any increase in the number of prosecutions will bring a concomitant need for an increase in indigent defense funding.

The Administrative Office of the District Attorneys (AODA) states this bill, if enacted, could result in additional expense related to more criminal matters filed in response to broadened definitions.

## **PERFORMANCE IMPLICATIONS**

The AOC notes that courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

The PDD states that its trial caseloads could be impacted if the number of prosecutions for animal cruelty increases. The appellate caseload could also increase as needed to litigate each issue raised above on a case-by-case basis as they arise.

## **ADMINISTRATIVE IMPLICATIONS**

The New Mexico Corrections Department (NMCD) states that the bill seems unlikely to significantly impact the NMCD prison population or probation/parole caseloads, and therefore has no or minimal administrative implications.

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