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FISCAL IMPACT REPORT

Ferrary/Roybal
Caballero/Trujillo,
CH/Thomson/
Armstrong, D

SPONSOR _____ **ORIGINAL DATE** 2/20/17
LAST UPDATED 3/09/17 **HB** 448/aHCPAC

SHORT TITLE Custody of Pets in Divorce Cases **SB** _____

ANALYST Downs

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 449

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of Amendment

The House Consumer and Public Affairs Committee amendment to House Bill 448 changed the new material (section B(5)), to strike pets and replace it with “a domestic animal owned as community property.” The committee also added a provision so that if an animal is only owned by one party, but is being abused by that party, the court can award that animal to the un-abusive party. The committee changed the title of the bill accordingly.

Synopsis of Original Bill

House Bill 448 amends Section 40-4-7 of the divorce laws concerning division of property to provide that the court may award pets to either party regardless of veterinary or other records indicating ownership.

FISCAL IMPLICATIONS

The Administrative Office of the Courts stated there would be minimal to no fiscal impact if House Bill 448 is enacted, stating, and “There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. House Bill 448 alters the evidentiary value of veterinary or other records indicating ownership, but probably will not further increase litigation over pet ownership than current levels. Pets are often fought over as passionately and bitterly as is child custody in divorce cases currently; House Bill 448 may affect the outcome, but not the frequency, of the battle itself.”

SIGNIFICANT ISSUES

The Administrative Office of the Courts provided the following commentary on House Bill 448 as compared to other states:

While not going as far as the new Alaska law cited below, House Bill 448 appears to acknowledge that pets may be different than other property in a divorce.

An Alaska law that took effect this month requires divorce court judges to consider the well-being of pets when making decisions about which spouse gets to keep the animals. The law, which amended Alaska’s divorce statutes, “is making waves in the world of animal law,” the Washington Post reported. Alaska’s law is the first in the nation to require courts to consider pets’ well-being in divorce, according to USA Today. The law not only requires judges to take “into consideration the well-being of the animal,” it also authorizes judges to award joint custody of pets. The law also allows judges to include pets in domestic violence protection orders. Michigan State University law professor David Favre tells the Post that the law is significant. “For the first time,” he said, “a state has specifically said that a companion animal has visibility in a divorce proceeding beyond that of property—that the court may award custody on the basis of what is best for the dog, not the human owners.”

However, House Bill 448 may conflict with established principles of community versus separate property. The time and manner of acquisition of a piece of property determine its status as community or separate. Records indicating pet ownership that predates a marriage would seem to indicate separate property, but House Bill 448 seems to provide that a court could still award that pet to the other party.

RELATIONSHIP

House Bill 448 relates to House Bill 449, which redefines harm or threatened harm to children as “an incident by a household member consisting of injuring or killing or threatening to injure or kill a pet.”

JD/sb/jle/al