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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/2/07  
 LAST UPDATED 2/24/07      HB 326/aHJC/aHF1

SPONSOR Miera

SHORT TITLE Expand Cruelty to Animal Offenses      SB \_\_\_\_\_

ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with SB10, SB70

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)  
 Corrections Department (CD)

### SUMMARY

#### Synopsis of HFI Amendment

House Floor Amendment 1 to HJC/HB 326 as amended, inserts the word “knowingly” so that Cruelty to animals consists of a person knowingly abandoning or failing to provide necessary sustenance to an animal that is under that person's custody or control in a way that is not life-threatening and extreme cruelty to animals consists of a person knowingly starving or dehydrating an animal in a way that imperils its life.

#### Synopsis of HJC Amendment

House Judiciary Committee Amendment inserts “knowingly” so that cruelty to animals consists of a person who knowingly abandons or fails to provide necessary sustenance to an animal that is under that person's custody or control in a way that is not life-threatening.

The amendment strikes that “the provisions of this section shall not be interpreted to prohibit cockfighting in New Mexico.”

### Synopsis of Original Bill

House Bill 326, Expand Cruelty to Animals, amends Section 30-18-1 NMSA 1978 to expand the crime of cruelty to animals to include abandoning or failing to provide sustenance an animal under the person’s custody or control when such abandonment or failure is not life-threatening is explicitly a misdemeanor. Most significantly, adds a third manner in which Extreme Cruelty to Animals can be proven, such that starving or dehydrating an animal in a way that imperils its life explicitly becomes punishable as a felony-level offense.

### **FISCAL IMPLICATIONS**

The AOC notes that there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would 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.

### **SIGNIFICANT ISSUES**

The AOC lists the following issues.

- 1) Ss penalties increase, potential imprisonment tends to inspire defendants to retain attorneys and demand jury trials. Indigent defendants are entitled too public defender services.
- 2) Section 30-18-1 NMSA 1978 exemption for cockfighting remains intact.

Most significant factor in this legislation, as indicated by the district attorneys, is that it will clarify a currently fuzzy area of prosecution of and defense of animal cruelty cases where the alleged cruelty is not providing the animal proper nutrition and/or access to clean water. The legislation makes explicit the legal thought process that many if not most law enforcement and prosecutors already utilize, which is to only pursue a felony-level offense in those instances where the neglect of nutrition and hydration of the animal was/is life-threatening, and to otherwise pursue a misdemeanor where the neglect was/is not life-threatening.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

The AODA addresses a potential conflict with both SB 70: Prohibit Cockfighting and SB 10: Prohibit Cockfighting. HB 326 specifically notes in subparagraph (K) that “the provisions of this section shall not be interpreted to prohibit cockfighting in New Mexico.” However, both SB 10 and SB 70 would specifically strike that language from the present statute, as well as amending the present dog-fighting statute – 30-18-9 – to prohibit any person from causing, sponsoring, arranging, holding or participating in a fight between dogs or cocks for the purpose of monetary gain or entertainment.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The consequence of not enacting the bill is that charging and prosecuting individuals for starving and/or dehydrating their animals to the point of threatening those animals' lives will continue to be something that is not spelled out as being authorized by statute. For that reason, it will continue to be easier for defendants accused of starving or dehydrating an animal to death or near-death to claim that such behavior is not criminalized.

EO/nt