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FISCAL IMPACT REPORT

ORIGINAL DATE 03/02/09
LAST UPDATED 03/10/09 **HB** HCPAC/CS/667/aHJC

SPONSOR HCPAC

SHORT TITLE Dangerous Dog Definitions & Prosecution **SB** _____

ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Unknown See Below	Unknown See Below		Recurring	local public bodies' funds

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 127

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Board of Veterinary Medicine (BVM)
 Corrections Department (CD)
 Department of Finance & Administration (DFA)
 Department of Public Safety (DPS)
 Public Defender Department (PDD)

Other Responses

Animal Protection Voters (APV)
 Independent Insurance Agents of NM (IIA)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to HCPAC/CS/HB 667 requires an owner of a dangerous dog to obtain and maintain liability insurance in the amount of \$100,000 instead of the previous \$250,000.

Synopsis of Original Bill

The House Consumer and Public Affairs Committee substitute for House Bill 667 amends Section 77-1A-2 of the Dangerous Dog Act to clarify and broaden several definitions. The dangerous dog definition is expanded to include a dog that caused the death of or a serious injury to a person or domestic animal.

HB 667 adds language to the proper enclosure definition to exclude the use of an electronic collar, invisible fence or confinement by chaining, restraining or otherwise affixing the animal to a stationary object.

This bill requires the handler of a dog removed from an owner's property to be a person of eighteen years of age or older. This section also adds the following additional requirements for the owner of a dangerous dog. The owner will submit photographs of unique markings for the purpose of identification, will obtain and maintain \$250,000 of liability insurance, provide proof of insurance, and will notify animal control at least 30 calendar days before the cancellation or non-renewal of the insurance.

FISCAL IMPLICATIONS

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.

SIGNIFICANT ISSUES

Independent Insurance Agents of New Mexico is concerned that this legislation will put an insurance agent in the uncomfortable position of having to tell the owners of a “dangerous dog” that they can either have their family pet or homeowners insurance, but not both. This will happen because the bill will effectively impose a legal standard of ‘strict liability’ on any dog deemed to be dangerous. If this happens, insurance companies will immediately begin to tighten their underwriting standards in this area, and we believe most will simply refuse to write Homeowners coverage for families with dogs identified under this legislation. Coverage in the surplus lines market could possibly develop as an alternative, but the problems with litigating such claims would make it unaffordable for most people.

IIA believes that the purpose of this bill is to provide protection for potential victims of dangerous dogs, but the inclusion of the insurance requirements is bound to have unintended consequences that will actually take away liability protection that is currently readily available.

Animal Protection Voters provided the following:

Too often people acquire a dog and then fail to properly care for the dog, thus creating an atmosphere where there is the potential for a tragic situation to occur. The dog may attack another dog or, in the worst cases, a child. The number of children being mauled by dogs in New Mexico is too high and preventative measures need to be taken.

- The Centers for Disease Control and Prevention estimates that nearly 2% of the U.S. population is bitten by a dog each year. This translates to more than 4.7 million people per year, most of whom are children.
- Ten to 20 people die every year as a result of dog bites in the U.S. By far, the majority of the victims are children. In a three-year period between 1999 and 2001, 33 people died after being bitten by a dog. A vast majority of these victims (24 of 33) were under 12 years of age.

Public safety needs to be safeguarded and dogs who pose a threat need to be kept in check, for the benefit of all members of the community, including the other animals which may fall victim to an unrestrained and dangerous dog. Both dangerous and potentially dangerous dogs need to be identified and requirements for their proper enclosure imposed. Potentially dangerous dogs are those who have not yet bitten, but possess characteristics that indicate they are likely to bite. A proactive dangerous dog laws does not target specific breeds but targets instead the factors most likely to lead to a future bite.

Breed specific legislation, which is legislation targeted at a particular breed of dog, often seeks to protect the public by making certain breeds illegal to own, yet often fails to properly address the issue by not accounting for the fact that any breed can have the potential to be dangerous. While certain breeds can cause more harm due to their size and strength of the breed, breed specific legislation can also give a community a false sense of security by believing that the community is safe simply because certain breeds of dogs are not allowed.

Animal Protection Voters recommends that instead of legislation targeted at one particular breed, the state of New Mexico enact legislation that holds everyone responsible and accountable for his or her animals.

ADMINISTRATIVE IMPLICATIONS

The enforcement requirements in this bill will affect local governments who may not have sufficient staffing to carry out all of the responsibilities.

The BVM notes that the duties of carrying out these changes will fall on shoulders of animal control officers. To carry out the provisions of this bill additional monitoring will be required. Many governmental entities are already stretched too thin with lack of resources to carry out their current duties.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB 127, Custody & Care of Mistreated Animals allows an animal shelter to petition the court to require a person, whose animal has been placed with the shelter because the animal has been cruelly treated, to post security to indemnify the shelter for costs related to the animal's care.