



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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**Bill Number:** S. 0105 Introduced on January 8, 2019  
**Author:** Campbell  
**Subject:** Animal Cruelty and Care  
**Requestor:** Senate Agriculture and Natural Resources  
**RFA Analyst(s):** Gardner and A. Martin  
**Impact Date:** January 14, 2019

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### **Fiscal Impact Summary**

This bill will have no expenditure impact for the Judicial Department, Commission on Prosecution Coordination, Commission on Indigent Defense, or Department of Agriculture as the implementation of the bill will not materially impact the activities of these agencies.

The Department of Labor, Licensing and Regulation (LLR) expects this bill to increase Other Funds expenditures by \$8,278 or more for FY 2019-20 for a minimum of two task force meetings to develop new required animal inspection and complaint investigation forms. However, the agency expects that licensure fees will cover these expenditures. In addition, this bill will increase General Fund revenue by \$828 or more for FY 2019-20 because LLR is required to remit an amount equal to 10 percent of board expenditures annually to the General Fund.

The Department of Corrections reports that over the past five fiscal years, there has been an average of fourteen people incarcerated in a given year for the inhumane treatment of animals. The additional number of inmates that may be incarcerated by the department is unknown. Therefore, the expenditure impact of this bill on the General Fund, Other Funds, and Federal Funds is undetermined.

Lexington County estimates that they would experience an expenditure impact of \$372,000 in FY 2019-20 for costs associated with hiring new staff, obtaining personnel equipment, and upgrading current facilities. Lancaster County notes that they could incur an expenditure impact depending on the number of additional staff needed to inspect private shelters and kennels, and additional funds may be necessary in order to make required shelter facility upgrades. Additionally, the South Carolina counties could collectively incur an expenditure impact of \$23,700 should magistrates have to arrange for outside training to fulfill continuing legal education requirements.

### **Explanation of Fiscal Impact**

#### **Introduced on January 8, 2019**

#### **State Expenditure**

This bill, related to animal cruelty, modifies the definition of “shelter” to specify that it be a covered structure and adds a provision that, as part of their mandatory continuing legal education requirements, magistrates must receive two hours of continuing education in the area of animal cruelty every four years.

The bill also adds provisions related to the tethering of dogs to require that dogs have access to adequate food and water and to make it unlawful for a person to tether a dog using a choke or prong collar or to tether a dog younger than six months of age, with some exceptions. Persons convicted of using a choke or prong collar to tether a dog or tethering a dog younger than six months of age are guilty of a misdemeanor and are subject to a fine of \$50 for a first offense and not more than \$100 for a subsequent offense. The bill also provides that a person convicted of a first offense of cruelly tethering a dog is guilty of a misdemeanor and subject to a penalty of not less than \$100 nor more than \$1,000, or imprisonment not to exceed ninety days, or both. For second and subsequent offenses, the penalty is increased to a fine not to exceed \$2,000, or imprisonment not to exceed two years, or both. A person convicted of a second or subsequent offense is guilty of a felony subject to a penalty not to exceed \$2,000, or imprisonment not to exceed two years, or both.

Additionally, the bill adds new definitions related to regulations by counties and municipalities for dogs and other domestic pets. It also allows a person to turn over a litter of unidentifiable dogs or cats four months of age or younger to any organization established for the purpose of caring for animals. Healthy, unidentifiable cats may be picked up and delivered to an animal care facility and sterilized within twenty-four hours. After surgery and once sufficiently recovered, the animal may be returned to the area in which it was found. Community cats will be eligible for trap-neuter-return or community cat programs.

The bill creates a new provision related to compensation for services rendered to an animal by a person who is awarded custody of the animal due to the owner's arrest for animal neglect or mistreatment. Should the defendant be found guilty, the custodian may petition the court to require the defendant to secure payment for all reasonable expenses related to the animal's care during pending litigation. In this case, the custodian is authorized to subsequently place the animal for adoption or arrange for it to be euthanized. Should the defendant be found not guilty, the county or municipality making the arrest must pay the custodian for the cost of services rendered to the animal. In this case, the defendant is authorized to subsequently recover custody of his animal. The municipal or magistrate's court will determine the actual cost of care for the animal once the custodian provides a good faith estimate of these costs.

With regard to the special fund administered by the Department of Agriculture to support local animal spay/neuter programs, the bill provides that local non-profit organizations offering these programs may apply for up to \$2,000 per grant application at the beginning of each fiscal year. These organizations must use grant funds within six months of receipt or return unused funds and must also submit a report to the Department of Agriculture listing the manner in which the funds were used.

The bill provides an exception for licensure as a veterinarian to allow veterinarians or veterinary technicians who are unlicensed in this jurisdiction but are licensed and in good standing in another jurisdiction to apply for an emergency limited license to practice veterinary medicine during times of emergency or natural disaster. In order for a veterinarian or a veterinary technician to practice in emergency situations, the bill requires that: (1) the Governor or his designee has declared an official state of emergency, (2) an official invitation has been offered to

the veterinarian or veterinary technician for a specified time by the Governor, (3) the applicant submits acceptable documentation to demonstrate eligibility for the limited license.

The bill also establishes new shelter standards. These standards will require animal sheltering facilities to ensure animals have adequate space and appropriate temperatures in indoor enclosures and appropriate cover in outdoor enclosures; isolate sick or injured animals from healthy ones and provide adequate veterinary care; keep enclosures clean and free from disease hazards, insects, pests, and odors; provide animals with continuous access to clean water and provide them with uncontaminated, palatable food at least once daily; observe each animal at least once daily; provide animals with adequate mental and physical stimulation; and keep written records of care for each animal and provide such records to animal control officers or authorized inspectors.

The bill modifies existing provisions to replace the term “animal refuge” or “refuge” with the term “rescue organization.” It also adds new definitions related to animal shelters and adds new provisions granting authority to animal control officers to enforce shelter standards. Officers have the power to conduct complaint investigations and must inspect animal sheltering facilities at least once annually. Documentation of inspections and complaint investigations must be provided by an authorized inspector or animal control officer. The Department of Labor, Licensing and Regulation must develop an electronic document for this purpose and make it available to inspectors and officers.

Animal control officers may issue orders to address shelter standard violations and may suspend intake of animals or require permanent closure of a facility. Shelters found in violation of the standards for a first non-compliant inspection will be issued a warning and will be re-inspected thirty days after the date of the first inspection. Should a facility be found non-compliant at the second inspection, it will be subject to a fine of not less than \$100 nor more than \$500, or the officer or inspector may opt to suspend intake of animals for a period of fifteen to thirty days to address the non-compliance. A follow-up inspection will be performed thirty days thereafter. If an animal control officer or authorized inspector finds that a shelter remains non-compliant at the time of the third inspection, he may issue an order to permanently close the facility. The facility will have ninety days within which to transfer all animals to other facilities, organizations, or individuals within the state. Under certain circumstances, animals may also be transferred out of the state. Local, state, and federal law enforcement retain their rights to investigate instances of animal cruelty at any animal sheltering facility.

**Judicial Department.** The bill will require magistrates and municipal court judges to receive two hours of continuing education on animal cruelty issues every four years at their mandatory continuing education programs. The department expects to absorb any costs associated with this additional instruction within current resources. The bill also creates a criminal offense for unlawful tethering of a dog. First offenses are misdemeanor charges that will be tried in either magistrates or municipal court or general sessions court. Second or subsequent offenses are felony charges that will be tried in general sessions court. Additionally, the bill establishes a new criminal offense for animal shelters failing a second inspection, making them subject to a fine of not less than \$100 nor more than \$500. As these are new offenses, there is no data to estimate the number of hearings or trials that may be initiated as a result of the bill. The

department expects to absorb any costs associated with an increase in caseloads in general sessions courts within existing resources. Any costs associated with an increase in caseloads in magistrates or municipal court would be borne by municipalities and counties.

**Commission on Prosecution Coordination.** The Commission indicates this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds because individuals charged under the new offense of animal cruelty are not expected to create a significant increase in caseloads for the agency. The agency already has systems and procedures in place that would service individuals charged with this new offense.

**Commission on Indigent Defense.** The Commission indicates this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds because individuals charged under the new offense of animal cruelty are not expected to create a significant increase in caseloads for the agency. The agency already has systems and procedures in place that would service individuals charged with this new offense.

**Department of Corrections.** The department indicates that this bill, through its provisions related to the tethering of dogs, has the potential to increase the number of inmates incarcerated in the department's facilities. The department reports that over the past five fiscal years, there has been an average of fourteen people incarcerated in a given year for the inhumane treatment of animals. This bill has the potential for judicial discretion in sentencing for these convictions, thus the additional number of inmates that may be incarcerated by the department is unknown. Therefore, the expenditure impact of this bill on the General Fund, Other Funds, and Federal Funds is undetermined.

**Department of Labor, Licensing and Regulation.** This bill tasks the State Board of Veterinary Medical Examiners (board) with creating an electronic form for animal control officers and other authorized inspectors to use during an inspection or investigation of an animal shelter. The board may establish a task force to develop this document. The task force would require at least two meetings to finalize the document. Committee members receive a per diem allowance of \$35 and mileage reimbursement of 58 cents per mile. Based on FY 2017-18 actual expenses, the average cost of running each meeting is estimated at \$1,983 in addition to estimated court reporter fees of \$2,156 per committee meeting. Combining these two figures, we estimate each meeting would cost \$4,139. Therefore, this bill would increase Other Funds expenditures by at least \$8,278 for two task force meetings. However, licensure fees borne by applicants are expected to generate the revenue needed to support these anticipated expenditures.

**Department of Agriculture.** The bill makes changes to the application process for grants from the special fund administered by the Department of Agriculture to support local animal spay/neuter programs. The South Carolina Animal Care and Control Association is responsible for the coordination of the grant program and distribution of individual grants. Therefore, this bill will have no impact to the General Fund, Federal Funds, or Other Funds.

**State Revenue.** LLR is required, pursuant to Section 40-1-50(D), to adjust fees biennially to ensure that fee revenue is sufficient, but not excessive, to cover expenses of each respective board. Therefore, this bill will increase Other Funds revenue by at least \$8,278 for FY 2019-20.

Additionally, the State Board of Veterinary Medical Examiners falls under the Division of Professional and Occupational Licensing. Pursuant to Proviso 81.3 of the FY 2018-19 Appropriations Act, LLR is required to remit annually to the General Fund an amount equal to 10 percent of board expenditures. Consequently, this bill will increase General Fund revenue by at least \$828 for FY 2019-20.

### **Local Expenditure**

All counties were surveyed as to what, if any, expenditure impact this would have on local governments. Four counties responded, including Charleston, Florence, Lancaster, and Lexington. Florence County reports that the bill will have no expenditure impact provided the number of continuing legal education (CLE) credits required for training on animal cruelty issues remains at two hours. Charleston County reports that as long as the training for these CLE credits is provided during the annual magistrate conference sponsored by Court Administration, there will be no expenditure impact on county governments. In the case that this training is not provided at the annual conference, however, county governments will have to pay for magistrates to receive the training. There are approximately 300 magistrates in South Carolina, and one hour of CLE provided by the South Carolina Bar Association costs \$79.00. If outside training is required, it may result in a collective county government cost of approximately \$23,700.

Lancaster and Lexington Counties report that the bill may have an expenditure impact on county governments, because additional personnel would be required to enforce tethering laws, conduct shelter inspections, and shelter facility upgrades may be required. Lancaster County notes that counties could incur an expenditure impact depending on the number of additional staff needed to inspect private shelters and kennels, and additional funds may be necessary in order to make required shelter facility upgrades as a result of this bill. Lexington County expects to hire two additional animal control officers to handle shelter inspections and investigations for tethering violations. This would result in a recurring amount of \$120,000 for salaries/fringe and operating costs and a non-recurring amount of \$252,000 for personnel equipment and facility upgrades. Lexington County estimates that they would experience an expenditure impact of \$372,000 in FY 2019-20.

### **Local Revenue**

N/A



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Frank A. Rainwater, Executive Director