



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 19-1158

FISCAL NOTE

Drafting Number: LLS 19-0824
Prime Sponsors: Rep. Lewis

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Bill Status: House Judiciary
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Bill Topic: SHERIFF ENFORCEMENT DANGEROUS DOG STATUTE

- Summary of Fiscal Impact: State Revenue (minimal), State Expenditure (minimal), State Transfer, TABOR Refund (minimal), Local Government, Statutory Public Entity

The bill allows a victim of a dangerous dog offense to file an affidavit with the court to force a county sheriff to enforce Colorado's dangerous dog statute. The bill increases state and local revenue, as well as state expenditures, by a minimal amount.

Appropriation Summary: No appropriation required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

This bill allows a victim to file an affidavit with the court alleging that a county sheriff has refused to enforce Colorado's dangerous dog statute. When an affidavit is filed, the sheriff must appear before the court and explain the reason for the refusal. If the judge finds the reason for the refusal is arbitrary or capacious and without reasonable excuse, the judge shall order the sheriff's office or the district attorney's office to investigate the dangerous dog offense. If the county sheriff refuses to comply with such an order, the sheriff's office must reimburse the county all of their county general fund appropriations.

Background and Assumptions

Under current law, a person commits between a class 3 misdemeanor and a class 5 felony for an injury caused by a dangerous dog, depending on the type of injury and if the injury was to a person or a domestic animal. A dangerous dog is defined as any dog that inflicts bodily or serious injury or causes the death of a person or domestic animal; demonstrates behavior that the dog may inflict bodily harm; or engages in or is trained for animal fighting. In counties that do not have an animal control department, animal calls are handled through the sheriff's office. In the last three fiscal years, there have been no sentences to the Department of Corrections (DOC) for an injury caused by a dangerous dog; therefore, the fiscal note assumes there will be no DOC impact and that any potential increase in sentencing under the bill will be to a county jail.

## **State Revenue**

Beginning in FY 2019-20, this bill will increase state revenue to the Judicial Department by a minimal amount, as described below.

**Criminal fines and court fees.** To the extent there are more court filings, either through increase enforcement of the dangerous dog statute or an increase in affidavits, the bill will increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2019-20, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. The fine penalty for a violation of owning a dangerous dog can range from \$50 (class 3 misdemeanor) to \$100,000 (class 5 felony). Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as probation supervision, drug surcharges, or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, a precise state revenue impact cannot be determined. Criminal fine and court fee revenue is subject to TABOR.

## **State Expenditures**

This bill increases costs and workload in the Judicial Department and agencies that provide representation to indigent persons by a minimal amount beginning in FY 2019-20 to the extent that there are more court filings, either through increase enforcement of dangerous dog statute or an increase in affidavits.

**Judicial Department.** This bill will increase costs and workload for the trial courts in the Judicial Department to process additional criminal case filings and to conduct hearings concerning affidavits under the bill. To the extent that more offenders are sentenced to probation, costs and workload in the Division of Probation will increase. Costs and workload may also increase in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Council. Overall, it is assumed that sheriff departments comply with current law and that any increase in costs or workload will be minimal and can be accomplished within existing appropriations. Should a change in funding be required for any agency or division with the Judicial Department, the fiscal note assumes it will be addressed through the annual budget process.

**TABOR refunds.** The bill is expected to minimally increase state General Fund obligations for TABOR refunds in FY 2019-20. Under current law and the December 2018 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

## **Local Government**

Beginning in FY 2019-20, this bill is expected to increase local government revenue, costs, and workload as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

**County sheriffs.** To the extent that the bill results in more investigations of a dangerous dog offense, costs and workload will increase. However, the fiscal note assumes that the county sheriffs are enforcing current law; therefore, any increase in costs and workload is expected to be minimal. The bill will also increase workload to the sheriffs office to attend hearings when an affidavit is filed. In the event that a judge issues an order for the sheriff to enforce the dangerous dog statute, it is assumed that the order will be followed; therefore, no impact to county general fund appropriations to the sheriff's office is expected.

**District attorneys.** To the extent the court orders a district attorney's office to investigate a dangerous dog offense, workload and costs will increase. Additionally, if the bill increases the filings of dangerous dog offences, workload and costs for district attorneys to prosecute the offense will also increase. However, the fiscal note assumes that any increase in workload and costs will be minimal. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

**County jails.** To the extent the bill results in more misdemeanor convictions for dangerous dog offenses, the bill may increase county jail costs. However, because the courts have the discretion of incarceration or imposing a fine, the precise county impact cannot be determined. Under current law, the state reimburses county jails for housing state inmates. Based on a 2018 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.93.

**Denver County Court.** The bill increases revenue, costs and workload for the Denver County Court, which is managed and funded by the City and County of Denver, to try misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience an increase in revenue, costs, and workload revenue to supervise persons convicted under the bill within Denver County.

## Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed. It applies to offenses committed on or after this date.

## State and Local Government Contacts

Sheriffs      Counties      Judicial      Information Technology