

SESSION OF 2017

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2071**

As Amended by Senate Committee on Judiciary

**Brief\***

HB 2071 would amend law related to the crime of domestic battery, the crime of cruelty to animals, and dog fighting crimes.

***Domestic Battery***

The bill would require a court to consider information presented to the court regarding a current or prior protective order issued against the offender in determining the sentence to be imposed within the limits provided for a first, second, or third, or subsequent offense. The bill would define “protective order” for these purposes. The bill would also strike language allowing the Department of Corrections to order that certain offenders not be required to undergo domestic violence offender assessments.

***Cruelty to Animals***

The humane killing exclusion from the crime of cruelty to animals would be amended to remove references to “pound,” “incorporated humane society,” and “the operator of” an animal shelter.

Provisions allowing an animal to be taken into custody and cared for or treated would be amended to either remove references to “incorporated humane society” or replace such references with “animal shelter.” An existing requirement for

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

notice to an owner or custodian would be expanded from cases in which the animal is placed in the care of an animal shelter to all cases, and written notification would be required.

The existing requirement that the board of county commissioners in the county where the animal was taken into custody establish procedures to allow an animal shelter to petition the district court to be allowed to place the animal for adoption or euthanize the animal would be replaced with a provision allowing the law enforcement agency, district attorney's office, county prosecutor, veterinarian, or animal shelter to petition the district court in the county in which the animal was taken into custody to transfer ownership of the animal. The bill would remove a provision requiring the board of county commissioners to review the cost of care and treatment being charged by the animal shelter maintaining the animal.

A provision prohibiting an animal from being returned to or allowed to remain with a person adjudicated guilty of this crime would be amended to remove a requirement that the court first be satisfied an animal owned or possessed by the person would be subjected to such crime in the future. A reference to "duly incorporated humane society" in this provision would be replaced with "animal shelter."

"Animal shelter" would be defined to mean the same as in the Kansas Pet Animal Act.

### ***Dog Fighting***

A provision regarding the placement of a dog taken into custody would be amended to replace a reference to "duly incorporated humane society" with "animal shelter."

The existing requirement that the board of county commissioners in the county where the animal was taken into custody establish procedures to allow an animal shelter to petition the district court to be allowed to place the animal for

adoption or euthanize the animal would be replaced with a provision allowing the law enforcement agency, district attorney's office, county prosecutor, veterinarian, or animal shelter to petition the district court in the county in which the animal was taken into custody to transfer ownership of the animal. The bill would remove a provision requiring the board of county commissioners to review the cost of care and treatment being charged by the animal shelter maintaining the animal.

A provision requiring costs be paid by the county where the dog was taken into custody if no conviction results would be amended to add law enforcement agencies and veterinarians to the list of entities entitled to payment for expenses incurred for the care, treatment, and boarding of the dog.

"Animal shelter" would be defined to mean the same as in the Kansas Pet Animal Act.

## **Background**

HB 2071 was introduced by the House Committee on Judiciary at the request of Representative Kuether. As introduced, the bill contained the provisions related to domestic battery. At the hearing before the House Committee, Representative Kuether testified in support of the bill and provided written testimony offered by a citizen supporting a similar bill during a previous session. The Kansas Coalition Against Sexual and Domestic Violence provided written-only testimony in support of the bill. No neutral or opponent testimony was presented.

At the hearing before the Senate Committee on Judiciary, the same proponents testified or offered written testimony. A representative of the Office of Judicial Administration testified as a neutral conferee.

The Senate Committee amended the bill to add the contents of HB 2302, as amended by House Committee, regarding the custody and disposition of cruelly treated animals. Further background information regarding HB 2302 is provided below.

According to the fiscal note prepared by the Division of the Budget on HB 2071, as introduced, the Office of Judicial Administration indicates enactment of the bill would increase Judicial Branch expenditures beginning in FY 2018 due to increased staff time incurred by Court Services Officers performing additional record checks required by the bill's provisions. The Kansas Sentencing Commission (Commission) indicates enactment of the bill would have no fiscal effect on prison admissions or bed space, or the workload of the Commission. Finally, the Department of Corrections indicates enactment of the bill would have no fiscal effect on its operations.

Fiscal note information for HB 2302 is provided below.

### ***HB 2302***

The bill was introduced by the House Committee on Judiciary at the request of the Humane Society of the United States. In the House Committee hearing, an attorney testified in support of the bill. The Great Plains SPCA, Humane Society of the United States, Kansas Animal Control Association, Kansas Association of Chiefs of Police, Kansas Peace Officers Association, Kansas Sheriffs' Association, and Lawrence Humane Society provided written-only testimony supporting the bill. No neutral or opponent testimony was provided.

The House Committee adopted an amendment changing the purpose of the petition from placing the animal for adoption or euthanization to transferring ownership of the animal.

In the Senate Committee on Judiciary hearing, the same proponents testified or submitted written testimony as in the House Committee hearing. No neutral or opponent testimony was provided.

According to the fiscal note prepared by the Division of the Budget on HB 2302, as introduced, the Kansas Association of Counties and Office of Judicial Administration indicate any fiscal effect would be negligible.