

LFC Requester:	Connor Jorgensen
-----------------------	-------------------------

**AGENCY BILL ANALYSIS
2013 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment**
Correction **Substitute**

Date 01/25/2013
Bill No: HB224--305

Sponsor: Rep. Carl Trujillo
Short Title: ANIMAL CRUELTY,
VETERINARIANS & COUNSELING

Reviewing Person Writing Attorney General's Office
Trevor A. Rigler, AAG
Phone: 5052229013 **Email** trigler@nmag.gov

SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHAGED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis:

HB 224, if enacted, would amend §30-18-1 NMSA (“Cruelty to animals; extreme cruelty to animals; penalties; exceptions”) as follows:

1. The bill narrows the exception to insects and reptiles.
2. The bill adds makes changes in several sections to the requisite mental state for various offenses within the existing law.
3. The bill cleans up and restructures the existing law with regard to the definitions used.
4. The bill removes special penalties for offenses within the existing law and creates the possibility for full misdemeanor and fourth degree felony punishments.
5. The bill creates the offense of cruelty to an animal causing death or great bodily harm and assigns punishment specific to that offense.
6. The bill broadens the definition of what could be deemed extreme cruelty to animals by using the term “mistreatment” to replace a narrower set of descriptors as found in the existing law.
7. The bill requires psychological counseling for persons convicted of extreme cruelty to animals. Under the existing law, psychological counseling is discretionary for that offense.
8. The bill narrows the veterinary exception to acts commonly accepted in veterinary practice.
9. The bill includes provisions for determining what constitutes commonly accepted veterinary practice, rodeo practice, or animal husbandry practice as a threshold to the filing of criminal charges. The bill assigns these tasks to relevant boards.
10. The bill includes numerous relevant definitions.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

This bill, if enacted, could result in additional expense related to more criminal matters filed in response to broadened definitions.

SIGNIFICANT LEGAL ISSUES

While the bill makes numerous changes to the existing law, it also makes clear that an offender must have a degree of intent to commit either cruelty or extreme cruelty to animals. In other words, mere negligence will no longer be sufficient. This makes the bill much less

susceptible to challenge by any defendant aggrieved by the enhanced penalties found therein. Additionally, the bill leaves intact the most common defenses to the existing law.

While requiring a finding that an act does not comply with commonly accepted veterinary practice, rodeo practice, or animal husbandry practice as a threshold to the filing of criminal charges is prudent, the statute of limitations for a full misdemeanor offense is a mere two years after the commission (not the discovery) of the crime.

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

None

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

SB139 – “DISPOSITION OF STATE-OWNED ANIMALS” (Mark Moores), which would govern the appropriate means for state agencies to dispose of animals. However, that bill does not contemplate destruction and appears to require agencies disposing of animals to do so by giving them to responsible parties.

SB155 – “EXPAND ANIMAL CRUELTY DEFINITIONS” (Jacob Candelaria), which would add a scienter element to the crime of abandoning/neglecting an animal and would also require that any chargeable act of starvation or dehydration of an animal be done so intentionally.

SB174 – “REPEAL ANIMAL SHELTER BOARD & MOVE DUTIES” (Carlos R. Cisneros), which would essentially delete the animal shelter board, transfer its powers to the board of veterinary medicine, and add a member to the board of veterinary medicine who is “a euthanasia technician, a euthanasia instructor or a manager or director of a euthanasia agency”.

SB 83 - “ANIMAL CRUELTY DEFINITIONS & PENALTIES” (Richard C. Martinez), which is identical to the present bill.

TECHNICAL ISSUES OR DRAFTING ERROR

None

OTHER SUBSTANTIVE LEGAL ISSUES

None

ALTERNATIVES TO ENACTING THIS BILL

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS NEEDED TO IMPROVE THIS BILL

Create a structure by which a board considering whether an act constitutes commonly accepted veterinary practice, rodeo practice, or animal husbandry practice conduct its hearing and submit findings within a particular time frame so as not to run afoul of applicable statute of limitations.