

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** SB 646 (2<sup>nd</sup> Edition)  
**SHORT TITLE:** Harm or Hinder Law or Assistance Animals  
**SPONSOR(S):** Senators Rand; and Cunningham

**FISCAL IMPACT**

Yes ( )	No (X)	No Estimate Available (X) (county jails)		
<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>

**REVENUES**

**EXPENDITURES**

Department of Correction – No fiscal impact  
Judicial Branch – No fiscal impact

**(Although we cannot project the number of new jail inmates due to this bill, it should be noted that Class 1 and Class A1 misdemeanants could receive active jail sentences.)**

**POSITIONS:** 0

**PRINCIPAL DEPARTMENT(S) &**

**PROGRAM(S) AFFECTED:** Judicial Branch and Dept. of Correction

**EFFECTIVE DATE:** This act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

**BILL SUMMARY:**

Amends GS 14-163.1, which, under current law, applies only to animals used for law enforcement purposes, such as investigation, detection of narcotics or explosives, or crowd control. Under current law it is a Class I felony to willfully and not in self-defense cause serious injury to, maim or kill this type of animal. This bill expands the scope of the law to include not only animals used for law enforcement purposes, but also any “assistance animal,” i.e., any animal that assists a handicapped person as defined in G.S. 168-1 (section 1(b)). Second, the bill broadens the class of behaviors that constitute a violation. Third, the bill makes it a Class A1 misdemeanor to cause or attempt to cause

physical harm (as opposed to serious physical harm) to the animal (section 1(b)), and a Class 1 misdemeanor to tease the animal or obstruct the animal in the performance of its official duties (section 1(c)). Self-defense is an affirmative defense to any violation.

#### **ASSUMPTIONS AND METHODOLOGY:**

Note is for technical purposes only to conform with Second Edition of the bill. There is no change in the fiscal impact analysis from the Note on the First edition.

#### **Judicial Branch**

The Administrative Office of the Courts (AOC) currently does not have an offense code for the existing offense under G.S. 14-163.1. The lack of an AOC offense code usually suggests that this offense is infrequently charged and/or infrequently results in convictions. According to AOC, it is likely that at least some persons committing this behavior are currently being charged with cruelty to animals under G.S. 14-360 at essentially similar penalty levels. In calendar year 2000, there were 76 defendants charged with felony cruelty to animals and 488 charged with misdemeanor cruelty to animals. Unfortunately, there is no way to assess how many, if any, of these defendants committed their crimes against law enforcement or assistance animals as defined by this bill. However, Fiscal Research assumes the percentage is low. Since causing serious physical harm would probably qualify as felony cruelty to animals regardless of the kind of animal under existing law, this bill is unlikely to result in new felony charges.

Since this bill significantly expands the scope and nature of the offense to create three new categories of offense, AOC assumes additional charges will be filed. However, they are unable to estimate how often the behaviors proscribed under the bill might occur. Given that there were only 564 charges statewide for the much broader category of cruelty to animals, Fiscal Research expects that any increase in court workload from this one bill can be absorbed with existing resources.

#### **Department of Correction**

Fiscal Research does not expect an impact on the prison population under subsection (b). In some cases though, local jails may be impacted. While we cannot project the number of new jail inmates due to this bill under subsection (c) and subsection (d), we do know the percentage of defendants receiving active sentences and the average sentence length for each new category.

#### *Subsection (b)*

In FY 1999/2000, 13% of Class I felons received an active sentence, with an average sentence length of 6 months. If, for example, there were five convictions for this offense per year, this subsection would result in the need for one additional prison bed the first year and two additional prison beds the second year. Since this bill is unlikely to result in new felony charges, FRD assumes no impact on the Department of Correction.

#### *Subsection (c)*

Since this subsection establishes a new Class A1 misdemeanor offense, it is not expected to have an impact on the prison population. In FY 1999/2000, 19% of Class A1 misdemeanor convictions resulted in active sentences. The average sentence length imposed was 69 days and these would be in county jails. This bill would have an impact on county jails if there were substantial new charges for causing physical harm to these protected animals. Under current law these may be charged as Class 1 Misdemeanor cruelty to animals so the impact of the bill is to raise the penalty from Class 1 to Class A1 with a higher % of active sentences and longer average sentences.

*Subsection (d)*

Since this subsection establishes a new Class 1 misdemeanor offense, it is estimated that this subsection will have no impact on the prison population. In FY 1999/2000, 15% of Class 1 misdemeanor convictions resulted in active sentences. The average sentence length imposed was 45 days and these would be in county jails. This bill would have an impact on county jails if there were several new charges for taunting, teasing, etc. These would not be likely to be covered under existing cruelty to animals. If sentencing follows the average for Class 1 misdemeanors, if there were 7 convictions there would be 1 new jail sentence.

**SOURCES OF DATA:** Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission

**TECHNICAL CONSIDERATIONS:**

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**DATE:** April 25, 2001



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