

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 135
Judiciary

(Delegate Moon, *et al.*)

Judicial Proceedings

Criminal Law – Cruelty to Animals – Payment of Costs

This bill authorizes a court to order a defendant convicted of specified animal cruelty offenses to pay all reasonable costs incurred in removing, housing, treating, or euthanizing an animal confiscated from the defendant. The order is a condition of sentencing and the payment is in addition to any other fines and costs imposed by the court. The applicable offenses are (1) animal abuse or neglect; (2) felony aggravated cruelty to animals (general); (3) felony aggravated cruelty to animals (dogfighting); and (4) felony aggravated cruelty to animals (cockfighting).

Fiscal Summary

State Effect: None. The change is procedural in nature and does not directly affect governmental finances.

Local Effect: Minimal decrease in local government expenditures to the extent that court-ordered payments defray costs incurred by local government entities that care for confiscated animals.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Conditions of Sentencing

As a condition of sentencing, a court may order a defendant convicted of animal abuse or neglect to participate in and pay for psychological counseling. As a condition of sentencing

for a defendant convicted of felony aggravated cruelty to animals (general), felony aggravated cruelty to animals (dogfighting), or felony aggravated cruelty to animals (cockfighting), a court may (1) order the defendant to participate in and pay for psychological counseling and (2) prohibit a defendant from owning, possessing, or residing with an animal for a specified period of time.

Removal of Mistreated Animals

Under § 10-615 of the Criminal Law Article, if an owner or custodian of an animal is convicted of an act of animal cruelty, the court may order the removal of the animal or any other animal at the time of conviction for the protection of the animal. An officer or authorized agent of a humane society, or a police officer or other public official required to protect animals, may seize an animal if necessary to protect the animal from cruelty.

If an animal is impounded, yarded, or confined without necessary food, water, or proper attention, is subject to cruelty, or is neglected, an officer or authorized agent of a humane society, a police officer, another public official required to protect animals, or any invited and accompanying veterinarian licensed in the State, may (1) enter the place where the animal is located and supply the animal with necessary food, water, and attention or (2) remove the animal if removal is necessary for the health of the animal. A person who enters a place to assist an animal under these circumstances is not liable for the entry. However, a person may not enter into a private dwelling for these purposes and is prohibited from removing a farm animal without the prior recommendation of a veterinarian licensed in the State.

A person who removes an animal under these circumstances must notify the animal's owner or custodian of the removal of the animal and any administrative remedies that may be available to the owner or custodian. If an administrative remedy is not available, the owner or custodian may file a petition for the return of the animal in the District Court of the county in which the removal occurred within 10 days after the removal.

As applied to crimes relating to animals, "cruelty" means the unnecessary or unjustifiable physical pain or suffering caused or allowed by an act, omission, or neglect including torture and torment. "Humane society" means a society or association incorporated in Maryland for the prevention of cruelty to animals.

Background: According to the Judiciary, there were 914 animal cruelty-related cases filed in the District Court and 394 cases filed in the circuit courts during fiscal 2018.

Chapter 410 of 2017 established the Animal Abuse Emergency Compensation Fund, administered by the Governor's Office of Crime Control and Prevention (GOCCP), to assist in paying costs associated with the removal and care of animals impounded under

the State’s animal abuse and neglect law. The fund consists primarily of fines levied as a result of conviction of an animal abuse crime and money appropriated in the State budget. GOCCP receives up to \$50,000 each fiscal year from the fund to offset its administrative costs. Chapter 410 of 2017 terminates September 30, 2020.

Local Expenditures: Local government expenditures decrease to the extent that the bill’s provisions defray costs incurred by local government entities that remove and care for confiscated animals. The extent of any such decrease in any given jurisdiction depends on the level of enforcement activity in the jurisdiction, the frequency of court-ordered payment of costs, and actual costs paid by convicted defendants.

Small Business Impact: The bill may have a meaningful impact on small businesses to the extent that court-ordered payments defray costs incurred by small businesses that care for confiscated animals.

Additional Information

Prior Introductions: Substantially similar bills have been introduced during previous legislative sessions. SB 393 of 2015 and its cross file, HB 362, passed both chambers with amendments but the differences were not reconciled. SB 37 of 2013 passed the Senate and received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, HB 865, received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: SB 152 (Senator Ready, *et al.*) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Natural Resources; Department of Health; State’s Attorneys’ Association; Washington and Worcester counties; City of Westminster; Town of Leonardtown; Department of Legislative Services

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