

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 405 (Delegate Foley, *et al.*)
 Judiciary

Criminal Law - Animal Abuse or Neglect - Penalties

This bill increases the penalties for abusing or neglecting an animal under § 10-604 of the Criminal Law Article if the violation results in the death of an animal or the need to euthanize the animal based on the recommendation of a licensed veterinarian. The bill also allows a court to prohibit a defendant from owning, possessing, or residing with an animal as a condition of sentencing.

Fiscal Summary

State Effect: General fund expenditures increase by \$33,200 in FY 2024 for one-time programming costs for the Judiciary. General fund expenditures may also increase, and general fund revenues may be affected, as a result of the bill’s increased penalty provision, as discussed below.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	-/(-)	-/(-)	-/(-)	-/(-)	-/(-)
GF Expenditure	\$33,200	-	-	-	-
Net Effect	-/(-)	-/(-)	-/(-)	-/(-)	-/(-)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local government revenues may increase, and local government expenditures may be affected, as a result of the bill’s increased penalty provision, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary: If a violation of § 10-604 of the Criminal Law Article results in the death of an animal or the need to euthanize the animal based on the recommendation of a licensed veterinarian, the violator is subject to imprisonment for up to three years and/or a maximum fine of \$5,000, rather than imprisonment for up to 90 days and/or a maximum fine of \$1,000. Such a violation remains a misdemeanor. The bill also establishes that as a condition of sentencing for a defendant convicted of animal abuse or neglect, a court may prohibit the defendant from owning, possessing, or residing with an animal for a period of time determined by the court. The bill also modifies an existing authorization for a court, as a condition of probation, to prohibit a defendant from owning, possessing, or residing with an animal, by specifying that the prohibition be for a period of time determined by the court.

Current Law: Under § 10-604 of the Criminal Law Article, a person who abuses or neglects an animal is guilty of a misdemeanor and subject to imprisonment for up to 90 days and/or a maximum fine of \$1,000. (The bill does not alter this penalty if a violation does not result in the death of an animal or the need to euthanize the animal based on the recommendation of a licensed veterinarian). As a condition of sentencing, a court may order a violator to participate in and pay for psychological counseling, and pay for all reasonable costs incurred in removing, housing, treating, or euthanizing an animal confiscated from the defendant. As a condition of probation, a court may prohibit a violator from owning, possessing, or residing with an animal.

State Revenues: General fund revenues may be affected due to offsetting impacts of (1) larger penalties imposed in cases heard in the District Court and (2) the bill's increased penalty provision causing more cases to be heard in the circuit courts rather than the District Court, shifting penalty revenues to local governments.

State Expenditures:

Programming

General fund expenditures increase by \$33,218 in fiscal 2024 only, for one-time programming costs for the Judiciary to implement the bill's changes.

Incarceration

According to the Judiciary, the following alleged violations and convictions occurred in the District Court under § 10-604:

- 1,973 alleged violations and 132 convictions during fiscal 2022;

- 884 alleged violations and 101 convictions during fiscal 2021; and
- 1,530 alleged violations and 84 convictions during fiscal 2020.

The following alleged violations (charges) and convictions occurred in the circuit courts under § 10-604:

- 731 alleged violations and 28 convictions during fiscal 2022;
- 442 alleged violations and 32 convictions during fiscal 2021; and
- 633 alleged violations and 79 convictions during fiscal 2020.

General fund expenditures may increase as a result of the bill's increased incarceration penalty due to more people being committed to State correctional facilities and payments to counties for reimbursement of inmate costs during longer incarcerations. The precise impact on expenditures depends upon the sentences imposed under the bill, as well as how many violations of § 10-604 involve the death or euthanasia of an animal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$4,970 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

Local Revenues: Revenues may increase as a result of the bill's increased monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures may be affected due to offsetting impacts of (1) longer incarcerations in local detention facilities and (2) more individuals being sentenced to State correctional facilities instead of local detention facilities due to the bill's increased incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 *per diem* State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility. *Per diem*

operating costs of local detention facilities have ranged from approximately \$90 to \$300 per inmate in recent years.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 672 and HB 1420 of 2022.

Designated Cross File: SB 85 (Senator Kramer) - Judicial Proceedings.

Information Source(s): Baltimore City; Caroline, Howard, and Prince George's counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

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