

D3, E2, E4

11r1217
CF 11r2458

Bill No.: _____

Drafted by: Joyce

Requested: _____

Committee: _____

By: **Delegate Moon**

A BILL ENTITLED

AN ACT concerning

Criminal Law – Animal Cruelty – Petition for Costs of Animal Seizure

FOR the purpose of authorizing, if an animal is seized under a certain provision of law, a certain individual to file a certain petition for certain costs including costs related to the care for the seized animal to be paid by a certain individual; prohibiting the filing of a certain petition after a certain date; providing for service of the petition; requiring the court to set and hold a certain hearing; requiring the petitioner to present certain evidence at the hearing; authorizing certain objections to the hearing; requiring the court to issue a certain order within a certain period; providing that a certain order include certain fees and costs; providing for the payment of a certain costs order; establishing that a certain payment does not prevent the provision of certain care or transfer of a seized animal; providing that certain costs may not be reimbursed under certain circumstances; providing for the termination of a certain order; providing for the remittance of certain costs; providing that a certain owner has the right to repossession of a certain animal and to a return of certain costs under certain circumstances; providing that a certain person may examine a certain seized animal for certain purposes under certain conditions; providing a certain petitioner with immunity from certain liability; providing for the application of the Act; defining certain terms; and generally relating to animal cruelty.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

1r1217

BY repealing and reenacting, without amendments,
Article - Criminal Law
Section 10-615
Annotated Code of Maryland
(2012 Replacement Volume and 2020 Supplement)

BY adding to
Article - Criminal Law
Section 10-615.1
Annotated Code of Maryland
(2012 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Criminal Law

10–615.

(a) 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.

(b) (1) 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.

(2) (i) An animal that a medical and scientific research facility possesses may be removed under this subsection only after review by and a recommendation from the Maryland Department of Health, Center for Veterinary Public Health.

(ii) The Maryland Department of Health shall:

1. conduct an investigation within 24 hours after receiving a complaint; and

2. within 24 hours after completing the investigation, report to the State's Attorney for the county in which the facility is situated.

(c) (1) 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:

(i) enter the place where the animal is located and supply the animal with necessary food, water, and attention; or

(ii) remove the animal if removal is necessary for the health of the animal.

(2) A person who enters a place under paragraph (1) of this subsection is not liable because of the entry.

(d) (1) A person who removes an animal under subsection (c) of this section shall notify the animal's owner or custodian of:

(i) the removal; and

(ii) any administrative remedies that may be available to the owner or custodian.

(2) 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.

(e) An animal is considered a stray AND WILL BE FORFEITED AS A MATTER OF LAW TO THE SEIZING AGENCY if:

(1) an owner or custodian of the animal was notified under subsection (d) of this section and failed to file a petition within 10 days after removal; or

(2) the owner or custodian of the animal is unknown and cannot be ascertained by reasonable effort for 20 days to determine the owner or custodian.

(f) This section does not allow:

(1) entry into a private dwelling; or

(2) removal of a farm animal without the prior recommendation of a veterinarian licensed in the State.

(g) In Baltimore County, the Baltimore County Department of Health, Division of Animal Control or an organization that the Baltimore County government approves shall enforce this section.

10-615.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "COSTS ORDER" MEANS A COURT ORDER TO PAY FILING FEES AND REASONABLE COSTS OF CARE.

(3) "DEFENDANT" MEANS A PERSON CHARGED WITH A VIOLATION OF THIS SUBTITLE, OR ANY OTHER STATE OR LOCAL ANIMAL CRUELTY LAW.

(4) ~~"NORMAL AGRICULTURAL OPERATION" MEANS THE ACTIVITIES, PRACTICES, EQUIPMENT AND PROCEDURES THAT FARMERS ADOPT, USE OR ENGAGE IN THE PRODUCTION AND PREPARATION FOR MARKET OF POULTRY, LIVESTOCK AND THEIR PRODUCTS AND IN THE PRODUCTION, HARVESTING AND PREPARATION FOR MARKET OR USE OF AGRICULTURAL, AGRONOMIC, HORTICULTURAL, SILVICULTURAL AND AQUACULTURAL CROPS AND COMMODITIES.~~

(5) "OWNER" MEANS A PERSON WHO CAN PROVE LEGAL TITLE TO OR OWNERSHIP OF AN ANIMAL AT ISSUE ON THE DATE OF THE SEIZURE.

(6) "PETITION" MEANS A PETITION TO PREVENT FORFEITURE OF FOR REASONABLE COSTS OF CARE FOR ANY ANIMAL SEIZED UNDER § 10-615 OF THIS SUBTITLE.

(6) "PETITIONER" A PERSON OR ENTITY THAT FILES A PETITION UNDER THIS SUBTITLE.

(7) (i) "REASONABLE COSTS OF CARE" MEANS THE REASONABLE COSTS OF CARING FOR SEIZED ANIMALS, INCLUDING THE PROVISION OF FOOD, WATER, SHELTER AND MEDICAL CARE, BEGINNING AT THE DATE OF THE SEIZURE AND CONTINUING UNTIL THE EARLIER OF ONE OF THE FOLLOWING:

1. ~~AT LEAST 30 DAYS FOLLOWING A HEARING ON A PETITION FOR COSTS OF CARE;~~

21. THE SEIZED ANIMALS ARE NO LONGER UNDER THE LEGAL CONTROL OF THE ~~PETITIONER~~ SEIZING AGENCY;

2. THE ANIMALS ARE FORFEITED TO THE SEIZING AGENCY AS A MATTER OF LAW; OR

3. THE OWNER ~~AND OR CUSTODIAN DEFENDANT~~ HAVE RELINQUISHED ALL INTERESTS IN THE SEIZED ANIMALS.

(ii) REASONABLE COSTS OF CARE SHALL BE LIMITED TO \$15 PER DAY PER ANIMAL, IN ADDITION TO NECESSARY MEDICAL CARE, AS DETERMINED BY A LICENSED VETERINARIAN AND DOCUMENTED BY INVOICES.

(B) (1) IF AN ANIMAL IS SEIZED UNDER § 10-615 OF THIS SUBTITLE, AND THE OWNER FILES A PETITION FOR RETURN OF THE SEIZED ANIMAL WITHIN 10 DAYS OF REMOVAL, AS PROVIDED BY SECTION § 10-615 (d)((2) OF THIS ARTICLE, A HEARING SHALL BE HELD IN THE A District Court of the county in which the removal occurred~~PETITION MAY BE FILED, WITH THE COURT IN THE COUNTY WHERE RELATED CRIMINAL CHARGES HAVE BEEN FILED, BY:~~

(2) IF THE OWNER OR CUSTODIAN DOES NOT PETITION WITHIN 10 DAYS AS PROVIDED ABOVE, THE ANIMALS WILL BE FORFEITED TO THE SEIZING AGENCY.

~~(i) AN OFFICER OR AUTHORIZED AGENT OF A HUMANE SOCIETY, OR~~

~~(ii) A POLICE OFFICER OR OTHER PUBLIC OFFICIAL REQUIRED TO PROTECT ANIMALS.~~

~~(2) A PETITION MAY NOT BE FILED LATER THAN SEVEN DAYS AFTER THE ENTRY OF FINAL JUDGMENT ON THE RELATED CRIMINAL CHARGE FOR A VIOLATION OF THIS SUBTITLE.~~

~~(3) NOT LATER THAN SEVEN DAYS AFTER FILING A PETITION UNDER THIS SUBSECTION, THE PETITIONER SHALL SERVE THE PETITION ON THE DEFENDANT BY PERSONAL SERVICE OR BY REGISTERED MAIL TO:~~

~~(i) THE DEFENDANT'S MAILING ADDRESS;~~

~~(ii) THE PLACE OF BUSINESS OF THE DEFENDANT'S COUNSEL; OR~~

~~(iii) THE DETENTION FACILITY WHERE THE DEFENDANT IS INCARCERATED.~~

~~(4) THE PETITIONER SHALL SERVE THE PETITION ON THE OWNER OF A SEIZED ANIMAL IF:~~

~~(i) THE PETITIONER IS AWARE THAT THE DEFENDANT IS NOT THE OWNER OF THE SEIZED ANIMAL; AND~~

~~(ii) THE PETITIONER IS AWARE OF THE OWNER'S LOCATION.~~

(C) ON RECEIPT OF A PETITION, THE COURT SHALL SET A DATE FOR A HEARING TO DETERMINE THE RESPONSIBILITY OF A DEFENDANT FOR REASONABLE COSTS OF CARE TO PREVENT FORFEITURE OF THE SEIZED ANIMALS.

(D) (1) A HEARING UNDER SUBSECTION (C) OF THIS SECTION SHALL BE SCHEDULED NOT LESS THAN 14 DAYS BUT NOT MORE THAN 21 DAYS FROM THE DAY THE ANIMALS WERE SEIZED. ~~SERVICE OF THE PETITION.~~

~~(2) THE PETITIONER SHALL SERVE NOTICE OF THE HEARING DATE ON THE DEFENDANT AND, IF REQUIRED TO BE SERVED UNDER SUBSECTION (B)(4) OF THIS SECTION, THE OWNER.~~

(E) AT THE HEARING, THE PETITIONER-SEIZING AGENCY SHALL PRESENT EVIDENCE THAT DEMONSTRATES:

(1) THE AMOUNT OF REASONABLE COSTS OF CARE FOR THE SEIZED ANIMAL FOR 30 DAYS; AND

(2) THAT THE SEIZURE WAS WARRANTED; ~~AND~~

(3) ~~IF THE OWNER IS REQUIRED TO BE SERVED UNDER SUBSECTION (B)(4) OF THIS SECTION, THAT A COPY OF THE PETITION HAS BEEN MAILED TO THE OWNER'S LAST KNOWN ADDRESS.~~

(F) ~~THE DEFENDANT AND, IF REQUIRED TO BE SERVED UNDER SUBSECTION (B)(4), THE PETITIONER OWNER~~ SHALL HAVE THE OPPORTUNITY AT THE HEARING TO OBJECT TO ~~THE PETITION EVIDENCE PRESENTED BY THE SEIZING AGENCY.~~

(G) (1) (i) NOT LATER THAN FIVE DAYS AFTER THE COMMENCEMENT OF THE HEARING, THE COURT SHALL ISSUE AN ORDER ~~ON GRANTING OR DENYING~~ THE PETITION, INCLUDING THE FOLLOWING:-

~~(H) IF THE COURT IF THE SEIZURE IS DETERMINED TO BE WARRANTED BASED ON THE PREPONDERANCE OF THE EVIDENCE, THE COURT SHALL GRANTS THE PETITION, THE ORDER SHALL INCLUDE ORDER~~ payment by the defendant into the clerk of the court an amount sufficient to cover all reasonable costs of care, as determined by the court, for a period beginning as of the date of seizure and ending 30 days after such date ~~ANY FILING FEES PAID BY THE PETITIONER TO FILE THE PETITION UNDER SUBSECTION (B) OF THIS SECTION AND THE AMOUNT OF REASONABLE COSTS OF CARE, BOTH OF WHICH SHALL BE PAID BY THE DEFENDANT.~~

~~(I) IN THE EVENT THE SEIZURE IS DETERMINED BASED ON THE PREPONDERANCE OF THE EVIDENCE BY THE COURT TO BE UNWARRANTED, THE SEIZED ANIMALS SHALL BE RETURNED TO THE OWNER.~~

(2) (i) THE COSTS ORDER SHALL INCLUDE A SCHEDULE OF MONTHLY PAYMENTS FOR COSTS OF CARE TO BE PAID BY THE DEFENDANT BEGINNING 30 DAYS AFTER THE INITIAL PAYMENT DESIGNATED IN THE ORDER, AND EVERY 30 DAYS THEREAFTER.

(ii) PAYMENTS SHALL CONTINUE UNTIL TERMINATION UNDER SUBSECTION (J) OF THIS SECTION.

(iii) THE DEFENDANT'S ABILITY TO PAY SHALL NOT AFFECT THE COURT'S DETERMINATION AS TO THE AMOUNT OF THE REASONABLE COSTS OF CARE.

(A) UNLESS THE CASE INVOLVES TWO (2) OR FEWER ANIMALS AND ONLY INCLUDES CHARGES OF NEGLIGENCE.

(IV) The seizing agency, ~~or agency caring for the animal on its behalf,~~ shall be eligible to draw funds from the clerk of the court ~~(?)~~ to reimburse its actual costs incurred caring for the animal.

(3) (i) NOT LATER THAN SEVEN DAYS AFTER SERVICE OF THE COSTS ORDER, THE DEFENDANT SHALL MAKE PAYMENTS ~~TO THE PETITIONER TO THE CLERK OF THE COURT (?)~~ IN ACCORDANCE WITH THE COSTS ORDER.

(ii) THE DEFENDANT SHALL MAKE PAYMENTS THEREAFTER UNDER THE COSTS ORDER UNTIL TERMINATION UNDER SUBSECTION (J) OF THIS SECTION.

(4) IF A DEFENDANT SUBJECT TO A COSTS ORDER FAILS TO TIMELY PAY ANY OF THE AMOUNTS ORDERED; such that, funds are not deposited within 75 days as required by the order.;

(i) A SEIZED ANIMAL FOR WHICH REASONABLE COSTS OF CARE WERE ORDERED SHALL BE AUTOMATICALLY FORFEITED, BY OPERATION OF LAW, TO THE SEIZING AGENCY-PETITIONER; AND

(ii) THE SEIZING AGENCY PETITIONER SHALL OBTAIN ALL RIGHTS AND PRIVILEGES IN AND OVER THE ANIMAL.

(5) (i) IF A CUSTODIAN DOES NOT PETITION WITHIN 10 DAYS BUT IS NOT THE OWNER, THEN THE SEIZING AGENCY MUST MAKE A GOOD FAITH EFFORT TO IDENTIFY THE OWNER AND NOTIFY THEM THAT THEIR ANIMALS HAVE BEEN SEIZED. THE OWNER WILL HAVE 10 DAYS AFTER RECEIVING NOTICE TO FILE THEIR OWN PETITION.

~~(ii) IF ANY OWNER WAS REQUIRED TO BE SERVED UNDER SUBSECTION (B)(4) OF THIS SECTION AND THE DEFENDANT IF THE CUSTODIAN WAS ORDERED TO PAY COSTS UNDER SUBSECTION (G) OF THIS SECTION, THE PETITIONER-CUSTODIAN SHALL PROVIDE THE OWNER WITH NOTICE OF THE NONPAYMENT BY CERTIFIED MAIL AT THE OWNER'S LAST KNOWN ADDRESS.~~

(II) THE NOTICE SHALL INFORM THE OWNER THAT THE FORFEITURE DESCRIBED IN THIS SUBSECTION SHALL OCCUR WITHOUT FURTHER NOTICE IF THE PAYMENT DEFAULT IS NOT REMEDIED IN FULL WITHIN TEN DAYS OF THE MAILING OF THE NOTICE.

(III) IF THE OWNER PAYS THE AMOUNT PAST DUE, THE OBLIGATION TO PAY COSTS UNDER SUBSECTION (G) OF THIS SECTION SHALL BE CONSIDERED A JOINT OBLIGATION OF THE ~~DEFENDANT-CUSTODIAN~~ AND THE OWNER, AND NO FURTHER NOTICE OF ANY OTHER DEFAULT SHALL BE REQUIRED PRIOR TO FORFEITURE.

(6) THE COURT, ON MOTION BY A PETITIONER OR RESPONDENT AND AFTER A HEARING CONSISTENT WITH THIS SECTION, MAY ADJUST THE AMOUNT OF REASONABLE COSTS OF CARE.

(H) (1) (I) PAYMENT OF REASONABLE COSTS OF CARE UNDER SUBSECTION (G) OF THIS SECTION SHALL NOT PREVENT THE ~~SEIZING AGENCY PETITIONER~~ FROM PROVIDING NECESSARY MEDICAL CARE, INCLUDING EUTHANIZING ANY SEIZED ANIMAL.

(II) ~~THE PETITIONER MAY EUTHANIZE A SEIZED ANIMAL IF THE PETITIONER OBTAINS A WRITTEN OPINION FROM A LICENSED VETERINARIAN WHO STATES IT IS NECESSARY TO ALLEVIATE THE ANIMAL'S SUFFERING.~~

(2) PAYMENT OF REASONABLE COSTS OF CARE UNDER SUBSECTION (G) OF THIS SECTION SHALL NOT PREVENT THE ~~SEIZING AGENCY PETITIONER~~ FROM TRANSFERRING ~~A SEIZED ANIMAL TO AN AGENCY FOR THE PURPOSE OF ANIMAL CARE. ANOTHER FACILITY OR CARETAKER A SEIZED ANIMAL IF:~~

(I) ~~THE COURT ORDERS THE TRANSFER; OR~~

~~(II) THE OWNER OF THE ANIMAL SURRENDERS ALL RIGHTS TO THE ANIMAL.~~

(I) ~~A PETITIONER MAY NOT BE REIMBURSED FOR COSTS OF CARE FOR WHICH THE DEFENDANT OR OWNER PROVIDES MEDICAL RECORDS, SIGNED BY A LICENSED VETERINARIAN, THAT SHOW THAT THE COSTS ARE UNNECESSARY.~~

(J) A COSTS ORDER SHALL BE TERMINATED ON THE OCCURRENCE OF:

(1) THE ISSUANCE OF A FINAL JUDGMENT ON THE CRIMINAL CHARGE FOR A VIOLATION OF THIS SUBTITLE;

(2) THE DEFENDANT OR OWNER OF THE ANIMAL SURRENDERING ALL RIGHTS TO THE SEIZED ANIMAL; ~~OR OR~~

~~(3) THE SEIZED ANIMAL BEING NO LONGER UNDER THE CONTROL OF THE PETITIONER.~~ THE SEIZED ANIMAL HAS BEEN FORFEITED AS PROVIDED IN SECTION G(4)

(K) (1) ON THE ISSUANCE OF THE FINAL ORDER ON THE RELATED CRIMINAL CHARGE FOR A VIOLATION OF THIS SUBTITLE, ANY UNUSED PORTION OF REASONABLE COSTS OF CARE REMAINING AFTER FULL PAYMENT IN ACCORDANCE WITH A COSTS ORDER SHALL BE REMITTED TO THE PERSON WHO PAID THE COSTS OF CARE OF THE SEIZED ANIMAL.

(2) ~~IF NO RELATED CRIMINAL CHARGE FOR A VIOLATION OF THIS SUBTITLE RESULTS IN ANY CONVICTION AND IF ALL COSTS ORDERED TO BE PAID UNDER SUBSECTION (G) OF THIS SECTION HAVE BEEN TIMELY PAID, THE OWNER SHALL HAVE THE RIGHT TO REPOSSESSION OF THE ANIMAL AND TO A RETURN OF ALL REASONABLE COSTS OF CARE.~~

(B) IF THE PETITIONER IS ACQUITTED OF ALL CRIMINAL CHARGE FOR A VIOLATION OF THIS SUBTITLE AND IF ALL COSTS ORDERED TO BE PAID UNDER SUBSECTION (G) OF THIS SECTION HAVE BEEN TIMELY PAID, THE OWNER SHALL HAVE THE RIGHT TO REPOSSESSION OF THE ANIMAL AND TO A RETURN OF ALL REASONABLE COSTS OF CARE.

(C2) IF THE OWNER IS CONVICTED OF A VIOLATION OF THIS SUBTITLE, ALL ANIMALS SEIZED AS PROVIDED BY THIS SUBTITLE SHALL BE FORFEITED TO THE SEIZING AGENCY.

(D) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PROHIBITING A SEIZING AGENCY AND THE PROSECUTOR FROM AGREEING TO RETURN SOME OF THE ANIMALS AS PART OF A PLEA AGREEMENT.

(L) (1) NOTWITHSTANDING ANY OTHER RIGHTS AND NO LATER THAN THE COMMENCEMENT OF THE HEARING UNDER SUBSECTION (E) OF THIS SECTION, THE ~~DEFENDANT-CUSTODIAN~~ OR OWNER OF THE ANIMAL SHALL HAVE ONE OPPORTUNITY, at a

location the seizing agency determines, TO EXAMINE THE SEIZED ANIMAL FOR THE PURPOSES OF PRESERVING EVIDENCE; BUT IN NO CASE SHALL THAT OPPORTUNITY BE MORE THAN 20-10 DAYS FROM THE DATE OF SEIZURE.

(2) THE EXAMINATION SHALL BE COMPLETED IN THE PRESENCE OF ~~A LAW ENFORCEMENT OFFICER, THE SEIZING AGENCY OR THEIR DESIGNEE~~

(M) ~~THE SEIZING AGENCY A PETITIONER~~ SHALL BE IMMUNE FROM CIVIL LIABILITY FOR DAMAGES ALLEGED BY A DEFENDANT OR OWNER CONCERNING THE CARE PROVIDED BY THE ~~PETITIONER, SEIZING AGENCY~~, EXCEPT FOR INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE RESULTING IN THE DEATH OF AN ANIMAL.

(N) NOTHING IN THIS SECTION SHALL APPLY TO CATTLE, EQUINES, MULES, DONKEYS, GOATS, SHEEP, SWINE, CHICKEN, DUCKS, GEESE, AND GUINEAFOWL TO ANIMALS USED FOR ACTIVITIES UNDERTAKEN IN A NORMAL AGRICULTURAL OPERATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.