



**THE HUMANE SOCIETY
OF THE UNITED STATES**

March 8, 2022

Judicial Proceedings Committee

SB877

Criminal Law – Animal Cruelty – Petition for Costs for Care of Seized Animal

FAVORABLE

The Humane Society of the United States, on behalf of our members and supporters in Maryland, urge a favorable report on SB877, which clarifies and expedites the legal process to determine the disposition of animals seized in Maryland animal cruelty and fighting cases and ensures that the animals' owner – not our taxpayers – cover the costs of caring for lawfully seized animals.

The legislation is needed to address issues in current law that were made clear in the 2017 case *Daniel Rohrer v. Humane Society of Washington County*, where 39 animals were seized in a case of extreme animal neglect in Washington County. The Maryland Court of Appeals noted the lack of a workable civil procedure to determine the disposition of the seized animals before the resolution of the criminal case. The court wrote, "The statute provides no explicit guidance as to the standard by which a petition should be decided, or even who has the burden of proof." Further, they explain, "the District and Circuit Court understandably felt at a loss for what standard to apply to decide the petition, as the statute is not explicit."

The bill before you addresses the concerns articulated by the Maryland Court of Appeals by clarifying the petition process for resolving the disposition of animals seized in Maryland animal and cruelty cases. Importantly, the bill creates a civil hearing procedure, separate from the criminal trial, in which a judge determines whether there is sufficient evidence of animal cruelty to require the owner to pay a bond for the reasonable costs of caring for his/her animal while the criminal case is adjudicated. If the owner fails to post the bond, the animal is relinquished to the seizing authority so that the animal may be adopted into a loving home. The owner can voluntarily relinquish the animal at any time and be absolved of financial responsibility.

Large-scale cruelty cases, such as puppy mill, dogfighting or hoarding cases, can involve the seizure of dozens or even hundreds of animals. These cases often take months, or even years,

to go to trial. Due to gaps in current law, and particularly those identified by the Court in the Rohrer case, seized animals must remain in the care of Maryland shelters for long periods of time, resulting in trauma for the animals and significant cost to our agencies and taxpayers.

This committee has been grappling with these issues for years and came close to resolving this problem in 2019. However, the bill that passed in 2019 kept the process as a retroactive procedure that occurs at the judge's discretion at the conclusion of the case. Consequently, the abused animals remain in legal limbo until the outcome of the criminal case and the bill did not provide the structural fix to Maryland's laws that is needed to protect our animals, pet owners, and taxpayers. Moreover, restitution, as the 2019 law permits, is a wholly inadequate substitute for this legislation's core requirement that shelters be allowed to collect reasonable, court-approved costs of care "in real time." Convicted animal cruelty offenders generally have little incentive or ability to pay the costs of care that accumulate over the months or years their animal has stayed in a shelter's custody during the cruelty case's pendency.

The legislation at issue today resolves this problem by allowing a shelter the opportunity to request the costs of caring for the animal during, not after, the criminal case. If the court agrees that the owner should pay but doesn't, the shelter can assume ownership of the animal and adopt the animal into a new loving home, significantly shortening the animal's shelter stay.

Moreover, the due process protections embedded in the current statute and the proposed law will help ensure that owners' rights are preserved while also, crucially, protecting animals from harm. First, it allows the owner to challenge the legality of the animals' seizure and the reasonableness of the bond requested. It also requires the seizing agency to demonstrate by a preponderance of the evidence that the animals were lawfully seized, so that no owner will unfairly be required to pay costs of care. And it also ensures that an owner who is acquitted will be repaid for any costs of care that they expended.

A majority of states in the country have effective laws to address the cost of caring for animals seized in cruelty cases. It is unacceptable for Maryland, which has an exemplary record on animal protection, to be in a minority of states that has no robust process to address the cost of caring for animals seized in cruelty cases. This form of "cost of care" legislation has been endorsed by the National Sheriffs Association, the American Bar Association, the Association of Prosecuting Attorneys, the Association of Shelter Veterinarians, the National Animal Control Association, the Animal Legal Defense Fund, and the American Society for the Protection of Animals. Someone has to pay the cost of caring for neglected and abused animals and, with effective due process protections, that cost should fairly be the responsibility of the owner – not the taxpayer.

This bill's passage is long overdue. It offers a fair and comprehensive solution to the issues discussed above and employs a procedure that has been proven successful in more than 40 states. For these reasons, we respectfully urge a favorable report on SB877.

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