Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 347   (Senator Stone)

Judicial Proceedings   Judiciary

Injury to or Death of Pet - Damages

This bill provides that a person who tortiously causes an injury to or death of a pet is liable to the owner of the pet for compensatory damages not to exceed $7,500. In the case of the death of a pet, compensatory damages means the fair market value of the pet and the reasonable and necessary cost of veterinary care. In the case of an injury to a pet, compensatory damages means the reasonable and necessary cost of veterinary care. The bill applies whether the person is acting individually or through an animal under the person's direction or control.

The bill does not apply to any cause of action arising before the bill's October 1, 2005 effective date.

Fiscal Summary

State Effect: The bill is not expected to materially affect the Judiciary's operations or finances.

Local Effect: None – see above.

Small Business Effect: None.

Analysis

Current Law: The measure of damages for tortious injuries to or death of a pet is the market value of the pet before injury or death, or the reasonable cost of veterinary care, but not more than $5,000.

Abuse of an animal is a misdemeanor, with maximum penalties of 90 days imprisonment and/or a $1,000 fine. Aggravated cruelty to animals is a felony, with maximum penalties of three years imprisonment and/or a $5,000 fine. If the injury or death was caused by a criminal or delinquent act, a victim may be able to receive restitution for certain losses or expenditures. A victim may receive restitution if the property of the victim was stolen, damaged, destroyed, converted, unlawfully obtained, or its value substantially decreased or if the victim suffered a direct out-of-pocket loss.

Background: At common law, a pet was considered property. Under this approach, which is followed in most states today, damages for the pet's injury or death are limited to the pet's replacement value. If the pet was a stray, otherwise obtained for free, or obtained from an animal shelter, this value is minimal.

Tennessee allows an award of noneconomic damages not exceeding $4,000 to a person whose pet is fatally injured or killed due to intentional or negligent actions. Idaho imposes civil penalties up to twice the value of a domestic animal that is intentionally killed or injured by a trespasser without the owner's consent. California, Illinois, New York, Oregon, and Utah authorize damages to a disabled person whose service animal is stolen, injured, or killed.

In addition, a small but growing number of jurisdictions have replaced the term "pet" with "companion animal." Companion animals are not considered property and, therefore, their companion humans can recover more than the animals' replacement value in case of their injury or death.

The Kentucky Court of Appeals, in *Burgess v. Taylor*, 84 S.W.3d 806 (2001), and the Hawaii Supreme Court, in *Campbell v. Animal Quarantine Station,* 632 P.2d 1066 (1981), have both held that noneconomic damages for the intentional destruction of pets are permissible under the laws of those states. The Wisconsin Supreme Court ruled otherwise, in *Rabideau v. City of Racine,* 627 N.W.2d 795 (2001). On the federal level, the 3rd Circuit Court of Appeals ruled in *Brown v. Muhlenberg Township,* 269 F.3d 205 *reh. en banc denied*, 273 F.3d 390 (2001), that noneconomic damages for the wrongful death of a pet are permissible under Pennsylvania law.

Additional Information

Prior Introductions: An identical bill, HB 1145 of 2004 was passed by the House. A hearing was held in the Senate, but no further action was taken.

Cross File: HB 941 (Delegate McComas, *et al.*) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2005
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Analysis by: Kineta A. Rotan   Direct Inquiries to:
                                                                (410) 946-5510
                                                                (301) 970-5510