

Department of Legislative Services
 Maryland General Assembly
 2011 Session

FISCAL AND POLICY NOTE

House Bill 169
 Judiciary

(Delegates Glenn and Haddaway-Riccio)

Criminal Law - Dangerous Dogs - Registration and Penalties

This bill (1) makes several changes to the statutory definition of a dangerous dog; (2) requires the owner of a dangerous dog to obtain a specified certificate from a local animal control unit on an annual basis; (3) requires that local animal control units collect specified dangerous dog information and forward the information to the State Board of Veterinary Medical Examiners in the Maryland Department of Agriculture, which must collect and publish the information on a public website; (4) prohibits the import of a dangerous dog into the State, as well as the sale, adoption, or transfer of a dangerous dog to a person in the State other than to a local animal control unit; and (5) establishes criminal penalties for individuals who engage in activities prohibited by the bill and owners whose dangerous dogs kill or inflict injury on domestic animals or people.

Fiscal Summary

State Effect: Special fund expenditures for the State Board of Veterinary Medical Examiners increase by \$106,500 in FY 2012 and by \$36,900 in FY 2013. Future year expenditures reflect inflation. The Office of the Public Defender (OPD) and the Judiciary can meet the bill’s requirements with existing resources. Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
GF Revenue	-	-	-	-	-
GF Expenditure	-	-	-	-	-
SF Expenditure	\$106,500	\$36,900	\$38,700	\$40,600	\$42,600
Net Effect	(\$106,500)	(\$36,900)	(\$38,700)	(\$40,600)	(\$42,600)

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

Local Effect: Local expenditures for animal control units may increase for the units to meet the requirements of the bill. Any such increase will depend on the existing resources of the local animal control unit and the extent of the dangerous dog problem in

the jurisdiction. Local revenues and expenditures increase minimally due to the bill's penalty provisions.

Small Business Effect: Potential minimal. License fees for licensees of the State Board of Veterinary Medical Examiners may increase if the bill's requirements cannot be accommodated by the State Board of Veterinary Medical Examiners Fund.

Analysis

Bill Summary: The bill repeals a local government's authority to designate a dog as potentially dangerous if the dog kills or inflicts severe injury on a domestic animal when not on its owner's real property after the dog has been designated potentially dangerous by a county or municipal corporation. Instead, the bill adds a dog that kills or inflicts severe injury on a domestic animal when not on its owner's real property to the statutory definition of a "dangerous dog." However, the bill includes an exemption from the "dangerous dog" designation for a dog that kills or inflicts severe injury on a person if the person (1) was committing a crime or willful trespass on the property occupied by the dog's owner at the time of the incident; or (2) provoked, tormented, or physically abused the dog at the time of the incident or repeatedly engaged in such behavior toward the dog in the past.

The bill removes the requirement that the owner of a dangerous dog who sells or gives the dog to another person provide written notification (1) of the name and address of the dog's new owner to the authority that determined the dog to be dangerous; and (2) of the dog's dangerous behavior to the dog's new owner.

The bill requires the owner of a dangerous dog to obtain a dangerous dog registration certificate from a local animal control unit within 10 days of the dog committing an act that renders it a dangerous dog. The owner must pay the certificate fee established by the local animal control unit and the certificate must include specified identifying information. A local animal control unit must issue a dangerous dog registration certificate if the owner provides satisfactory evidence that (1) the dog has a current rabies vaccination; (2) the dog has been spayed or neutered; (3) the dog will be confined to the owner's residence or in a securely enclosed and locked pen; and (4) the owner has at least \$300,000 in dog attack liability coverage and has posted clearly visible signs warning of the presence of a dangerous dog at the property where the dog is confined. A dangerous dog registration certificate must be renewed annually for a fee set by the local animal control unit.

The owner of a dangerous dog must promptly notify the local animal control unit if (1) there is any change in the owner's name or address; (2) the dangerous dog becomes

loose or unconfined; (3) the dangerous dog bites or attacks a person or another animal; or (4) the dangerous dog is sold, given away, or dies.

Each local animal control unit that collects required information from dangerous dog owners must forward the information to the State Board of Veterinary Medical Examiners in the Maryland Department of Agriculture, which is required to publish the information collected on a publicly accessible website.

The bill prohibits a person from importing a dangerous dog into the State and from selling, adopting, or otherwise transferring a dangerous dog in the State to another person other than an animal control unit. Violators are guilty of a misdemeanor and are subject to maximum penalties of imprisonment for one year and/or a \$2,500 fine.

The owner of a dangerous dog that kills or inflicts severe injury on a domestic animal is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for six months and/or a \$1,000 fine. The owner of a dangerous dog that kills or inflicts severe injury on a person is guilty of a felony and is subject to imprisonment for at least one year and up to five years and/or a \$2,500 fine. If the dangerous dog kills or inflicts severe physical injury on a person due to the owner's gross negligence or reckless, wanton, or intentional misconduct, the owner is guilty of a felony, punishable by imprisonment for at least 1 year and up to 10 years and/or a \$2,500 fine. The court must impose any applicable mandatory minimum sentence, regardless of statutory authority for the court to impose a lesser penalty of the same character. A mandatory minimum sentence is nonsuspendable.

Current Law: A “dangerous dog” is one that has killed or inflicted severe injury on a person without provocation or is determined to be potentially dangerous by a local government and, after that determination (1) bites a person; (2) kills or inflicts severe injury on a domestic animal when the dog is not on its owner's real property; or (3) attacks without provocation.

A local jurisdiction may determine that a dog is potentially dangerous if it finds that the dog has inflicted a bite on a person while on public or private real property; has killed or inflicted severe injury on a domestic animal when not on its owner's real property; or has attacked without provocation. The jurisdiction must notify the dog owner in writing of the reasons for its determination.

A dog owner may not leave a dangerous dog unattended on the owner's real property unless the dog is confined indoors, is in a securely enclosed and locked pen, or is in another structure designed to restrain the dog. A dog owner may not allow a dangerous dog to leave the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.

An owner of a dangerous or potentially dangerous dog who sells or gives the dog to another must provide, in writing, specified information about the new owner to the local government unit that made the determination about the dog and notify the new owner about the dog's dangerous or potentially dangerous behavior.

A person who violates these provisions is guilty of a misdemeanor and subject to a maximum fine of \$2,500.

If a law sets a minimum and maximum penalty for a crime, a court may impose a lesser penalty of the same character in lieu of the statutorily prescribed minimum penalty. However, this authority does not affect a maximum penalty set in statute or the punishment for any crime in which the statute provides only one penalty.

Background: According to the American Veterinary Medical Association's (AVMA) *2007 U.S. Pet Ownership & Demographics Sourcebook*, more than 72 million dogs are household pets in the United States. The U.S. Centers for Disease Control and Prevention report that approximately 4.5 million people are bitten by dogs each year, and 20% of dog bite victims require medical attention for related injuries. In 2006, more than 31,000 people underwent reconstructive surgery as a result of a dog bite. Children are more likely to receive medical attention for dog bite injuries, and children ages five to nine have the highest rate of dog bite-related injuries.

In 2001, AVMA convened a Task Force on Canine Aggression and Human-Canine Interactions to recommend the most effective measures for reducing the incidences of dog bites and holding dog owners responsible for their dogs' behavior. Recommendations included identification and regulation of dangerous dogs, improved bite data reporting, and more comprehensive public education about dog behaviors.

The State Board of Veterinary Medical Examiners licenses and regulates veterinary professionals, veterinary hospitals, and humane organizations. The board also conducts annual inspections of veterinary hospitals. The board investigates consumer complaints, and when appropriate, takes disciplinary action against veterinarians, registered veterinary technicians, and veterinary hospitals. None of the board's current duties involve maintaining data on dangerous animals, dog bites, or ownership of animals. According to the board, issues related to dog bites are usually handled by local animal control units. The Center for Zoonotic and Vector-Borne Diseases at the Department of Health of Mental Hygiene (DHMH) collects statewide dog bite data.

State Revenues: General fund revenues may increase minimally from monetary penalties imposed in District Court cases.

State Expenditures: Expenditures increase for the State Board of Veterinary Medical Examiners and the Department of Public Safety and Correctional Services as a result of the bill. The bill is not likely to have an effect on expenditures for OPD and the Judiciary.

State Board of Veterinary Medical Examiners

The bill requires the board to collect and publish data provided by local animal control units regarding dangerous dog certification. As a result, expenditures for the State Board of Veterinary Medical Examiners Fund increase by \$106,463 in fiscal 2012, which accounts for the bill's October 1, 2011 effective date. This estimate reflects the cost of contracting with a consultant to design the database and website and hiring one part-time database administrator to maintain the database and website. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$25,249
Consulting Services	75,000
Other Operating Expenses	<u>6,214</u>
Total FY 2012 State Expenditures	\$106,463

Future year expenditures increase by \$36,869 in fiscal 2013 and by \$42,584 in fiscal 2016. This estimate reflects the elimination of one-time consulting services cost, a full salary with 4.4% annual increases and 3% employee turnover as well as 1% annual increases in ongoing operating expenses.

Department of Public Safety and Correctional Services

General fund expenditures increase minimally as a result of the bill's incarceration penalties due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,920 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including variable medical care and variable operating costs) is about \$390 per month. Excluding all medical care, the average variable costs total \$170 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 DOC. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem 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 DOC but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Office of the Public Defender and the Judiciary

According to DHMH, there were approximately 34,646 dog bites made on humans in Maryland from 2003-2007, resulting in an average of 8,662 dog bites per year. While the bill does create several misdemeanors and felonies, the criminal provisions only apply to dogs that have already been deemed dangerous. It is unclear at this time how many dog bites involve dogs who have already been determined to be dangerous by local animal control units and to what extent prosecutors will pursue charges. Also, it is unclear how many defendants will qualify for OPD services. However, it is assumed that the number of cases generated by this bill will be minimal and that OPD will be able to handle the increased workload with existing resources.

The Judiciary advises that any increase in caseloads due to the bill's criminal penalties will not result in a significant fiscal or operational impact.

Local Revenues: Local revenues may increase minimally from monetary penalties imposed in circuit court cases.

Local Expenditures: The board advises that there are approximately 30 entities in the State that fit the bill's definition of "animal control unit." The increase in expenditures that these entities may incur as a result of the bill's requirements will depend on the existing resources of the entity and the extent of the dangerous dog problem in the entity's jurisdiction.

Garrett and Montgomery counties advise that the bill will not have a fiscal impact. Baltimore County advises that it will have to purchase one animal transport vehicle and hire one animal control officer and one part-time office assistant to meet the bill's requirements. Baltimore County estimates that expenditures for its Animal Control Division will increase by approximately \$100,000 in fiscal 2012 as a result of the bill.

Expenditures increase minimally as a result of the bill's incarceration penalties. 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 DOC but are confined in a local facility. Per diem operating costs of local detention facilities are expected to range from \$57 to \$157 per inmate in fiscal 2011.

Small Business Effect: The State Board of Veterinary Medical Examiners Fund is used exclusively to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the board. The fund consists of revenues generated from license, registration, and other fees charged by the board. Fees are set to approximate the cost of maintaining the board. However in recent years, the board's operating expenses have been gradually increasing while revenues remained relatively steady. Since fiscal 2009, the board's operating expenses have been greater than the special fund revenues collected each year, causing the board's fund balance to be spent down to cover expenses. An eventual increase in fees charged by the board is expected in order to cover expenses once the existing fund balance has been depleted. At the beginning of fiscal 2011, the board's fund balance totaled \$220,000. The fiscal 2011 State budget includes \$494,805 in special funds for the board.

The Budget Reconciliation and Financing Act of 2011 (HB 72) authorizes the transfer of \$150,000 from the State Board of Veterinary Medical Examiners Fund to the general fund by June 30, 2011. Following the transfer, the board's fund balance is expected to total only \$43,000 at the end of fiscal 2011. The transfer would likely result in the need to increase fees earlier than they otherwise would be, possibly as soon as fiscal 2012. In addition, the requirements of this bill will further erode the board's fund balance, resulting in a greater need for higher fees.

Additional Information

Prior Introductions: HB 1314 of 2010, a substantially similar bill, received an unfavorable vote from the House Judiciary Committee.

Cross File: None.

Information Source(s): Baltimore, Garrett, and Montgomery counties; Maryland Department of Agriculture; Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Legislative Services

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