

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 371 (Delegate Glenn)
Judiciary

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 that information to the State Board of Veterinary Medical Examiners (SBVME) 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: General fund expenditures for SBVME increase by \$121,300 in FY 2015. Future year expenditures reflect ongoing costs and 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.

Local Effect: Local expenditures for animal control units may increase to meet the bill's requirements. Any such increase depends on the existing resources of the local animal control unit and the extent of the dangerous dog problem in each jurisdiction. It is assumed that local animal control units establish fees to offset any increase in costs. Local revenues and expenditures may increase minimally due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: 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 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; (4) the dog has been permanently identified by a tattoo or by electronic implantation; and (5) 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 issues a certificate and collects the required information from a dangerous dog owner must forward the information to SBVME 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 bill subjects the owner of a dangerous dog to various criminal penalties, depending on the acts committed by the dog. **Exhibit 1** outlines the bill's criminal penalty provisions.

Exhibit 1
Criminal Penalties for Owners of Dangerous Dogs under HB 371

<u>Offense</u>	<u>Penalty</u>
Killing or inflicting severe injury on a domestic animal	Misdemeanor – Imprisonment for up to 6 months and/or \$1,000 fine
Infliction of injury on a person	Felony – Imprisonment for up to 1 year and/or \$2,500 fine
Killing or inflicting severe injury on a person	Felony – Imprisonment for up to 5 years (1 year mandatory minimum) and/or \$2,500 fine
Killing or inflicting severe injury on a person due to owner's gross negligence or reckless, wanton, or intentional misconduct	Felony – Imprisonment for up to 10 years (1 year mandatory minimum) and/or \$2,500 fine

Source: Department of Legislative Services

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 behavior.

SBVME 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: General fund expenditures increase for SBVME and may increase for the Department of Public Safety and Correctional Services as a result of the bill. The bill is not likely to have a fiscal impact on OPD or 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, general fund expenditures for the board increase by \$121,320 in fiscal 2015, which accounts for the bill's October 1, 2014 effective date. This estimate reflects the cost of contracting with a consultant to design the database and website and hiring one administrator to maintain the database and website and act as a liaison with local animal control units. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$40,725
Consulting Services	75,000
Other Operating Expenses	<u>5,595</u>
Total FY 2015 SBVME Expenditures	\$121,320

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

General funds are required to implement the bill because the bill's requirements are not an authorized use of SBVME's special fund as set out in the Agriculture Article.

Department of Public Safety and Correctional Services

General fund expenditures may increase minimally as a result of the bill's incarceration penalties due to more people being committed to State correctional 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 State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,100 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 State inmate (including variable health care costs) is about \$735 per month. Excluding all health care, the average variable costs total \$185 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. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had 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 the State 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 State correctional 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 to 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 is minimal and that OPD can 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 Fiscal Effect: SBVME 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 depends on the existing resources of each entity and the extent of the dangerous dog problem in each entity's jurisdiction.

For example, Charles County projects that it will make 36 dangerous dog declarations per year under the bill and that the county needs to hire a part-time employee to comply with

the bill's requirements. Montgomery County does not expect the bill to have a significant fiscal impact and has advised in the past that it declares approximately five dogs as dangerous every year.

Because the bill requires a dog owner to pay the certificate fee established by the local animal control unit, it is assumed that local animal control units establish fees to offset any increase in expenditures.

Expenditures may 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 the State but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

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

Additional Information

Prior Introductions: HB 178 of 2013 and HB 169 of 2011 received unfavorable reports from the House Judiciary Committee. HB 1314 of 2010, a substantially similar bill, also received an unfavorable report from the House Judiciary Committee.

Cross File: None.

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

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