

SENATE BILL 393

E1, E2

5lr1258
CF HB 362

By: **Senators Raskin, Benson, Edwards, Feldman, Guzzone, Hough, Klausmeier, Lee, Madaleno, Montgomery, Peters, Pinsky, Rosapepe, Simonaire, Waugh, and Young**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Costs of Care for Seized Animals**

3 FOR the purpose of establishing that the owner or custodian of an animal seized or removed
4 under certain provisions of law is liable for certain costs relating to the care of the
5 animal during a certain period; requiring a person who seizes or removes an animal
6 under certain provisions of law to post a certain notice in a certain manner; requiring
7 a certain seizing authority to make a reasonable attempt to provide a certain notice
8 under certain circumstances; repealing a certain provision of law regarding the
9 circumstances under which an animal may be considered a stray; authorizing the
10 owner or custodian of a certain animal to file a certain petition; providing that a
11 certain petition be served on a seizing authority; providing that failure to file a
12 certain petition shall be considered a forfeiture of a certain animal to the seizing
13 authority; providing for a certain hearing to make a certain determination; requiring
14 the District Court to issue a certain order unless a certain bond is posted; providing
15 that failure to post a certain bond results in a certain forfeiture; authorizing the
16 seizing authority to draw certain funds from a certain bond; requiring the unused
17 portion of a certain bond to be returned to a certain person; providing for adjusting
18 the amount of a certain bond; defining a certain term; and generally relating to
19 animals.

20 BY repealing and reenacting, with amendments,
21 Article – Criminal Law
22 Section 10–615
23 Annotated Code of Maryland
24 (2012 Replacement Volume and 2014 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Criminal Law

10–615.

(A) IN THIS SECTION, “SEIZING AUTHORITY” MEANS A PERSON AUTHORIZED UNDER THIS SECTION TO SEIZE OR REMOVE AN ANIMAL FROM THE OWNER OR CUSTODIAN OF THE ANIMAL.

[(a)] (B) 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)] (C) (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 Department of Health and Mental Hygiene, Center for Veterinary Public Health.

(ii) The Department of Health and Mental Hygiene 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)] (D) (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.

(E) THE OWNER OR CUSTODIAN OF AN ANIMAL SEIZED OR REMOVED UNDER SUBSECTION (C) OR (D) OF THIS SECTION IS LIABLE FOR THE REASONABLE COSTS OF CARING FOR THE ANIMAL FROM THE TIME OF SEIZURE OR REMOVAL UNTIL THE

1 ANIMAL IS FORFEITED TO THE SEIZING AUTHORITY OR RETURNED TO THE OWNER
2 OR CUSTODIAN, INCLUDING COSTS ASSOCIATED WITH:

3 (1) SEIZING OR REMOVING THE ANIMAL;

4 (2) TRANSPORTING THE ANIMAL FROM THE PLACE OF SEIZURE OR
5 REMOVAL;

6 (3) PROVIDING MEDICAL CARE TO THE ANIMAL;

7 (4) FEEDING THE ANIMAL;

8 (5) SHELTERING THE ANIMAL; AND

9 (6) DISPOSING OF THE ANIMAL, IF NECESSARY.

10 [(d)] (F) (1) A person who SEIZES OR removes an animal under subsection
11 (c) OR (D) of this section shall [notify] POST IN A CONSPICUOUS PLACE AT THE
12 LOCATION WHERE THE ANIMAL WAS SEIZED OR REMOVED A NOTICE TO the animal's
13 owner or custodian [of] THAT INCLUDES:

14 (i) [the removal; and] A DESCRIPTION OF THE ANIMAL;

15 (II) THE STATUTORY AUTHORITY AND REASON FOR THE
16 SEIZURE OR REMOVAL;

17 [(ii)] (III) any administrative remedies that may be available to the
18 owner or custodian;

19 (IV) CONTACT INFORMATION FOR THE SEIZING AUTHORITY,
20 INCLUDING A NAME AND TELEPHONE NUMBER;

21 (V) A STATEMENT THAT THE OWNER OR CUSTODIAN IS LIABLE
22 FOR THE REASONABLE COSTS FOR THE CARE OF THE ANIMAL;

23 (VI) NOTICE OF THE RIGHT TO VOLUNTARILY FORFEIT THE
24 ANIMAL TO THE SEIZING AUTHORITY; AND

25 (VII) NOTICE OF THE RIGHT TO FILE A PETITION WITHIN 10 DAYS
26 AFTER THE SEIZURE OR REMOVAL FOR THE RETURN OF THE ANIMAL IN THE
27 DISTRICT COURT OF THE COUNTY IN WHICH THE SEIZURE OR REMOVAL OCCURRED.

1 [(2) If an administrative remedy is not available, the owner or custodian
2 may file a petition for the return of the animal in the District Court of the county in which
3 the removal occurred within 10 days after the removal.]

4 **(2) IF THE PERSON WITH CUSTODY OF THE ANIMAL AT THE TIME OF**
5 **SEIZURE OR REMOVAL IS NOT THE OWNER OF THE ANIMAL, OR IF NO PERSON HAS**
6 **CUSTODY OF THE ANIMAL AT THE TIME OF SEIZURE OR REMOVAL, THE SEIZING**
7 **AUTHORITY SHALL MAKE A REASONABLE ATTEMPT TO PROVIDE THE NOTICE**
8 **DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION TO THE OWNER OF THE**
9 **ANIMAL.**

10 [(e) An animal is considered a stray if:

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

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

15 **(G) (1) (I) THE OWNER OR CUSTODIAN OF AN ANIMAL SEIZED OR**
16 **REMOVED UNDER THIS SECTION MAY PETITION THE DISTRICT COURT FOR THE**
17 **RETURN OF THE ANIMAL WITHIN 10 DAYS AFTER THE SEIZURE OR REMOVAL.**

18 **(II) A PETITION FILED UNDER THIS PARAGRAPH SHALL BE**
19 **SERVED ON THE SEIZING AUTHORITY.**

20 **(III) IF THE OWNER OR CUSTODIAN FAILS TO FILE A PETITION**
21 **UNDER THIS PARAGRAPH WITHIN 10 DAYS OF THE SEIZURE OR REMOVAL, THE**
22 **ANIMAL SHALL BE CONSIDERED FORFEITED TO THE SEIZING AUTHORITY.**

23 **(2) THE DISTRICT COURT SHALL SCHEDULE A HEARING WITHIN 14**
24 **DAYS OF THE FILING OF A PETITION UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

25 **(3) (I) AT THE HEARING, THE DISTRICT COURT SHALL**
26 **DETERMINE WHETHER THERE IS PROBABLE CAUSE TO BELIEVE THE ANIMAL WAS**
27 **SUBJECT TO CRUELTY IN VIOLATION OF THIS SUBTITLE.**

28 **(II) IF PROBABLE CAUSE IS FOUND, THE DISTRICT COURT**
29 **SHALL ORDER THAT THE ANIMAL BE FORFEITED TO THE SEIZING AUTHORITY**
30 **UNLESS, WITHIN 5 DAYS AFTER THE ISSUANCE OF THE ORDER, THE OWNER OR**
31 **CUSTODIAN POSTS A BOND FOR THE REASONABLE COSTS OF CARE, AS DESCRIBED**
32 **IN SUBSECTION (E) OF THIS SECTION, FOR A 30-DAY PERIOD, IN AN AMOUNT**
33 **DETERMINED BY THE COURT.**

1 **(III) 1. IF A BOND IS POSTED UNDER SUBPARAGRAPH (II) OF**
2 **THIS PARAGRAPH, THE DISTRICT COURT SHALL ORDER THAT A NEW BOND IN THE**
3 **SAME AMOUNT BE POSTED EVERY 30 DAYS DURING THE PENDENCY OF ANY**
4 **CRIMINAL TRIAL OR APPEAL RELATED TO THE SEIZURE OR REMOVAL OF THE**
5 **ANIMAL.**

6 **2. FAILURE TO POST A BOND UNDER THIS**
7 **SUBPARAGRAPH SHALL RESULT IN THE FORFEITURE OF THE ANIMAL TO THE**
8 **SEIZING AUTHORITY.**

9 **(4) (I) THE SEIZING AUTHORITY MAY DRAW FUNDS EQUAL TO THE**
10 **COSTS OF CARING FOR THE ANIMAL FROM A BOND POSTED IN ACCORDANCE WITH**
11 **PARAGRAPH (3) OF THIS SUBSECTION.**

12 **(II) ON THE FINAL DISPOSITION ON ANY RELATED CHARGE**
13 **UNDER THIS SUBTITLE, THE UNUSED PORTION OF A BOND POSTED IN ACCORDANCE**
14 **WITH PARAGRAPH (3) OF THIS SUBSECTION SHALL BE RETURNED TO THE PERSON**
15 **THAT POSTED THE BOND.**

16 **(III) THE POSTING OF A BOND IN ACCORDANCE WITH**
17 **PARAGRAPH (3) OF THIS SUBSECTION DOES NOT LIMIT OTHER CIVIL OR CRIMINAL**
18 **REMEDIES AVAILABLE TO THE SEIZING AUTHORITY FOR COSTS NOT COVERED BY**
19 **THE BOND.**

20 **(5) (I) THE OWNER OR CUSTODIAN OR THE SEIZING AUTHORITY**
21 **MAY PETITION THE DISTRICT COURT AT ANY TIME TO ADJUST THE AMOUNT OF**
22 **BOND FOR GOOD CAUSE.**

23 **(II) A PARTY FILING A PETITION UNDER THIS PARAGRAPH**
24 **SHALL PROVIDE NOTICE OF THE FILING TO THE OTHER PARTY.**

25 **(III) THE DISTRICT COURT SHALL SCHEDULE A HEARING ON A**
26 **PETITION FILED UNDER THIS PARAGRAPH WITHIN 14 DAYS AFTER THE FILING OF**
27 **THE PETITION.**

28 **[(f)] (H)** This section does not allow:

29 (1) entry into a private dwelling; or

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

1 **[(g)] (I)** In Baltimore County, the Baltimore County Department of Health,
2 Division of Animal Control or an organization that the Baltimore County government
3 approves shall enforce this section.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2015.