

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

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 16, 2015

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – ~~Costs of Care for Seized Animals~~ Animal Cruelty – Payment of**
3 **Costs**

4 FOR the purpose of ~~establishing that the owner or custodian of an animal seized or removed~~
5 ~~under certain provisions of law is liable for certain costs relating to the care of the~~
6 ~~animal during a certain period; requiring a person who seizes or removes an animal~~
7 ~~under certain provisions of law to post a certain notice in a certain manner; requiring~~
8 ~~a certain seizing authority to make a reasonable attempt to provide a certain notice~~
9 ~~under certain circumstances; repealing a certain provision of law regarding the~~
10 ~~circumstances under which an animal may be considered a stray; authorizing the~~
11 ~~owner or custodian of a certain animal to file a certain petition; providing that a~~
12 ~~certain petition be served on a seizing authority; providing that failure to file a~~
13 ~~certain petition shall be considered a forfeiture of a certain animal to the seizing~~
14 ~~authority; providing for a certain hearing to make a certain determination; requiring~~
15 ~~the District Court to issue a certain order unless a certain bond is posted; providing~~
16 ~~that failure to post a certain bond results in a certain forfeiture; authorizing the~~
17 ~~seizing authority to draw certain funds from a certain bond; requiring the unused~~
18 ~~portion of a certain bond to be returned to a certain person; providing for adjusting~~
19 ~~the amount of a certain bond; defining a certain term; authorizing a court to order a~~
20 defendant convicted of a certain charge of animal cruelty, as a condition of
21 sentencing, to pay, in addition to any other fines and costs, all reasonable costs
22 incurred in removing, housing, treating, or euthanizing an animal confiscated from
23 the defendant; and generally relating to ~~animals~~ animal cruelty.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
 2 Article – Criminal Law
 3 Section ~~10-615~~ 10-604, 10-606, 10-607, and 10-608
 4 Annotated Code of Maryland
 5 (2012 Replacement Volume and 2014 Supplement)

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

8 **Article – Criminal Law**

9 ~~10-615.~~

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

13 ~~[(a)] (B) If an owner or custodian of an animal is convicted of an act of animal~~
 14 ~~cruelty, the court may order the removal of the animal or any other animal at the time of~~
 15 ~~conviction for the protection of the animal.~~

16 ~~[(b)] (C) (1) An officer or authorized agent of a humane society, or a police~~
 17 ~~officer or other public official required to protect animals may seize an animal if necessary~~
 18 ~~to protect the animal from cruelty.~~

19 ~~(2) (i) An animal that a medical and scientific research facility~~
 20 ~~possesses may be removed under this subsection only after review by and a~~
 21 ~~recommendation from the Department of Health and Mental Hygiene, Center for~~
 22 ~~Veterinary Public Health.~~

23 ~~(ii) The Department of Health and Mental Hygiene shall:~~

24 ~~1. conduct an investigation within 24 hours after receiving a~~
 25 ~~complaint; and~~

26 ~~2. within 24 hours after completing the investigation, report~~
 27 ~~to the State’s Attorney for the county in which the facility is situated.~~

28 ~~[(e)] (D) (1) If an animal is impounded, yarded, or confined without necessary~~
 29 ~~food, water, or proper attention, is subject to cruelty, or is neglected, an officer or authorized~~
 30 ~~agent of a humane society, a police officer, another public official required to protect~~
 31 ~~animals, or any invited and accompanying veterinarian licensed in the State, may:~~

32 ~~(i) enter the place where the animal is located and supply the~~
 33 ~~animal with necessary food, water, and attention; or~~

1 (ii) ~~remove the animal if removal is necessary for the health of the~~
2 ~~animal.~~

3 (2) ~~A person who enters a place under paragraph (1) of this subsection is~~
4 ~~not liable because of the entry.~~

5 **~~(E) THE OWNER OR CUSTODIAN OF AN ANIMAL SEIZED OR REMOVED UNDER~~**
6 **~~SUBSECTION (C) OR (D) OF THIS SECTION IS LIABLE FOR THE REASONABLE COSTS~~**
7 **~~OF CARING FOR THE ANIMAL FROM THE TIME OF SEIZURE OR REMOVAL UNTIL THE~~**
8 **~~ANIMAL IS FORFEITED TO THE SEIZING AUTHORITY OR RETURNED TO THE OWNER~~**
9 **~~OR CUSTODIAN, INCLUDING COSTS ASSOCIATED WITH:~~**

10 **~~(1) SEIZING OR REMOVING THE ANIMAL;~~**

11 **~~(2) TRANSPORTING THE ANIMAL FROM THE PLACE OF SEIZURE OR~~**
12 **~~REMOVAL;~~**

13 **~~(3) PROVIDING MEDICAL CARE TO THE ANIMAL;~~**

14 **~~(4) FEEDING THE ANIMAL;~~**

15 **~~(5) SHELTERING THE ANIMAL; AND~~**

16 **~~(6) DISPOSING OF THE ANIMAL, IF NECESSARY.~~**

17 **~~[(d)] (F) (1) A person who SEIZES OR removes an animal under subsection~~**
18 **~~(e) OR (D) of this section shall [notify] POST IN A CONSPICUOUS PLACE AT THE~~**
19 **~~LOCATION WHERE THE ANIMAL WAS SEIZED OR REMOVED A NOTICE TO the animal's~~**
20 **~~owner or custodian [of] THAT INCLUDES:~~**

21 **~~(i) [the removal; and] A DESCRIPTION OF THE ANIMAL;~~**

22 **~~(ii) (H) THE STATUTORY AUTHORITY AND REASON FOR THE~~**
23 **~~SEIZURE OR REMOVAL;~~**

24 **~~[(ii)] (III) any administrative remedies that may be available to the~~**
25 **~~owner or custodian;~~**

26 **~~(iv) CONTACT INFORMATION FOR THE SEIZING AUTHORITY,~~**
27 **~~INCLUDING A NAME AND TELEPHONE NUMBER;~~**

28 **~~(v) A STATEMENT THAT THE OWNER OR CUSTODIAN IS LIABLE~~**
29 **~~FOR THE REASONABLE COSTS FOR THE CARE OF THE ANIMAL;~~**

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

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

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

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

~~[(c) An animal is considered a stray if:~~

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

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

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

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

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

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

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

1 ~~(H) IF PROBABLE CAUSE IS FOUND, THE DISTRICT COURT~~
2 ~~SHALL ORDER THAT THE ANIMAL BE FORFEITED TO THE SEIZING AUTHORITY~~
3 ~~UNLESS, WITHIN 5 DAYS AFTER THE ISSUANCE OF THE ORDER, THE OWNER OR~~
4 ~~CUSTODIAN POSTS A BOND FOR THE REASONABLE COSTS OF CARE, AS DESCRIBED~~
5 ~~IN SUBSECTION (E) OF THIS SECTION, FOR A 30 DAY PERIOD, IN AN AMOUNT~~
6 ~~DETERMINED BY THE COURT.~~

7 ~~(HH) 1. IF A BOND IS POSTED UNDER SUBPARAGRAPH (H) OF~~
8 ~~THIS PARAGRAPH, THE DISTRICT COURT SHALL ORDER THAT A NEW BOND IN THE~~
9 ~~SAME AMOUNT BE POSTED EVERY 30 DAYS DURING THE PENDENCY OF ANY~~
10 ~~CRIMINAL TRIAL OR APPEAL RELATED TO THE SEIZURE OR REMOVAL OF THE~~
11 ~~ANIMAL.~~

12 ~~2. FAILURE TO POST A BOND UNDER THIS~~
13 ~~SUBPARAGRAPH SHALL RESULT IN THE FORFEITURE OF THE ANIMAL TO THE~~
14 ~~SEIZING AUTHORITY.~~

15 ~~(4) (I) THE SEIZING AUTHORITY MAY DRAW FUNDS EQUAL TO THE~~
16 ~~COSTS OF CARING FOR THE ANIMAL FROM A BOND POSTED IN ACCORDANCE WITH~~
17 ~~PARAGRAPH (3) OF THIS SUBSECTION.~~

18 ~~(H) ON THE FINAL DISPOSITION ON ANY RELATED CHARGE~~
19 ~~UNDER THIS SUBTITLE, THE UNUSED PORTION OF A BOND POSTED IN ACCORDANCE~~
20 ~~WITH PARAGRAPH (3) OF THIS SUBSECTION SHALL BE RETURNED TO THE PERSON~~
21 ~~THAT POSTED THE BOND.~~

22 ~~(HH) THE POSTING OF A BOND IN ACCORDANCE WITH~~
23 ~~PARAGRAPH (3) OF THIS SUBSECTION DOES NOT LIMIT OTHER CIVIL OR CRIMINAL~~
24 ~~REMEDIES AVAILABLE TO THE SEIZING AUTHORITY FOR COSTS NOT COVERED BY~~
25 ~~THE BOND.~~

26 ~~(5) (I) THE OWNER OR CUSTODIAN OR THE SEIZING AUTHORITY~~
27 ~~MAY PETITION THE DISTRICT COURT AT ANY TIME TO ADJUST THE AMOUNT OF~~
28 ~~BOND FOR GOOD CAUSE.~~

29 ~~(H) A PARTY FILING A PETITION UNDER THIS PARAGRAPH~~
30 ~~SHALL PROVIDE NOTICE OF THE FILING TO THE OTHER PARTY.~~

31 ~~(HH) THE DISTRICT COURT SHALL SCHEDULE A HEARING ON A~~
32 ~~PETITION FILED UNDER THIS PARAGRAPH WITHIN 14 DAYS AFTER THE FILING OF~~
33 ~~THE PETITION.~~

34 ~~[(f)] (H) This section does not allow:~~

1 ~~(1) entry into a private dwelling; or~~

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

4 ~~[(g)](I) In Baltimore County, the Baltimore County Department of Health,~~
 5 ~~Division of Animal Control or an organization that the Baltimore County government~~
 6 ~~approves shall enforce this section.~~

7 10-604.

8 (a) A person may not:

9 (1) overdrive or overload an animal;

10 (2) deprive an animal of necessary sustenance;

11 (3) inflict unnecessary suffering or pain on an animal;

12 (4) cause, procure, or authorize an act prohibited under item (1), (2), or (3)
 13 of this subsection; or

14 (5) if the person has charge or custody of an animal, as owner or otherwise,
 15 unnecessarily fail to provide the animal with nutritious food in sufficient quantity,
 16 necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.

17 (b) (1) A person who violates this section is guilty of a misdemeanor and on
 18 conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000
 19 or both.

20 (2) As a condition of sentencing, the court may order a defendant convicted
 21 of violating this section to:

22 (I) participate in and pay for psychological counseling; AND

23 (II) PAY, IN ADDITION TO ANY OTHER FINES AND COSTS, ALL
 24 REASONABLE COSTS INCURRED IN REMOVING, HOUSING, TREATING, OR
 25 EUTHANIZING AN ANIMAL CONFISCATED FROM THE DEFENDANT.

26 (3) As a condition of probation, the court may prohibit a defendant from
 27 owning, possessing, or residing with an animal.

28 10-606.

29 (a) A person may not:

1 (1) intentionally mutilate, torture, cruelly beat, or cruelly kill an animal;

2 (2) cause, procure, or authorize an act prohibited under item (1) of this
3 subsection; or

4 (3) except in the case of self-defense, intentionally inflict bodily harm,
5 permanent disability, or death on an animal owned or used by a law enforcement unit.

6 (b) (1) A person who violates this section is guilty of the felony of aggravated
7 cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a
8 fine not exceeding \$5,000 or both.

9 (2) As a condition of sentencing, the court may order a defendant convicted
10 of violating this section to:

11 (I) participate in and pay for psychological counseling; AND

12 (II) PAY, IN ADDITION TO ANY OTHER FINES AND COSTS, ALL
13 REASONABLE COSTS INCURRED IN REMOVING, HOUSING, TREATING, OR
14 EUTHANIZING AN ANIMAL CONFISCATED FROM THE DEFENDANT.

15 (3) As a condition of probation, the court may prohibit a defendant from
16 owning, possessing, or residing with an animal.

17 10-607.

18 (a) In this section, "baiting" means using a dog to train a fighting dog or to test
19 the fighting or killing instinct of another dog.

20 (b) A person may not:

21 (1) use or allow a dog to be used in a dogfight or for baiting;

22 (2) arrange or conduct a dogfight;

23 (3) possess, own, sell, transport, or train a dog with the intent to use the
24 dog in a dogfight or for baiting; or

25 (4) knowingly allow premises under the person's ownership, charge, or
26 control to be used to conduct a dogfight or for baiting.

27 (c) (1) A person who violates this section is guilty of the felony of aggravated
28 cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a
29 fine not exceeding \$5,000 or both.

1 (2) As a condition of sentencing, the court may order a defendant convicted
2 of violating this section to:

3 (I) participate in and pay for psychological counseling; AND

4 (II) PAY, IN ADDITION TO ANY OTHER FINES AND COSTS, ALL
5 REASONABLE COSTS INCURRED IN REMOVING, HOUSING, TREATING, OR
6 EUTHANIZING A DOG CONFISCATED FROM THE DEFENDANT.

7 10-608.

8 (a) (1) In this section, “implement of cockfighting” means any implement or
9 device intended or designed:

10 (i) to enhance the fighting ability of a fowl, cock, or other bird; or

11 (ii) for use in a deliberately conducted event that uses a fowl, cock,
12 or other bird to fight with another fowl, cock, or other bird.

13 (2) “Implement of cockfighting” includes:

14 (i) a gaff;

15 (ii) a slasher;

16 (iii) a postiza;

17 (iv) a sparring muff; and

18 (v) any other sharp implement designed to be attached in place of
19 the natural spur of a gamecock or other fighting bird.

20 (b) A person may not:

21 (1) use or allow the use of a fowl, cock, or other bird to fight with another
22 animal;

23 (2) possess, with the intent to unlawfully use, an implement of
24 cockfighting;

25 (3) arrange or conduct a fight in which a fowl, cock, or other bird fights with
26 another fowl, cock, or other bird;

27 (4) possess, own, sell, transport, or train a fowl, cock, or other bird with the
28 intent to use the fowl, cock, or other bird in a cockfight; or

1 (5) knowingly allow premises under the person’s ownership, charge, or
2 control to be used to conduct a fight in which a fowl, cock, or other bird fights with another
3 fowl, cock, or other bird.

4 (c) (1) A person who violates this section is guilty of the felony of aggravated
5 cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a
6 fine not exceeding \$5,000 or both.

7 (2) As a condition of sentencing, the court may order a defendant convicted
8 of violating this section to:

9 (I) participate in and pay for psychological counseling; AND

10 (II) PAY, IN ADDITION TO ANY OTHER FINES AND COSTS, ALL
11 REASONABLE COSTS INCURRED IN REMOVING, HOUSING, TREATING, OR
12 EUTHANIZING A FOWL, COCK, OR OTHER BIRD CONFISCATED FROM THE
13 DEFENDANT.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.