

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 362
Judiciary

(Delegate Waldstreicher, *et al.*)

Judicial Proceedings

Criminal Law - Animal Cruelty - Payment of Costs

This bill authorizes a court to order a defendant convicted of specified animal cruelty offenses to pay all reasonable costs, up to \$15,000, incurred in removing, housing, treating, or euthanizing an animal confiscated from the defendant. However, a court may not order a defendant to pay any costs incurred after surrender of ownership of the animal by the defendant or after the animal is considered a stray.

The order is a condition of sentencing and the payment is in addition to any other fines and costs imposed by the court. The applicable offenses are: (1) felony aggravated cruelty to animals (general); (2) felony aggravated cruelty to animals (dogfighting and baiting); and (3) felony aggravated cruelty to animals (cockfighting). Additionally, the bill requires a person who removes an animal due to animal cruelty to notify the animal's owner *in writing* of the removal, and any administrative remedies that may be available to the owner, and the right of the owner to surrender ownership of the animal to the agency that removed the animal.

Fiscal Summary

State Effect: None. The bill is procedural and does not materially affect State finances.

Local Effect: Minimal decrease in local government expenditures to the extent the court-ordered payments defray costs incurred by local government entities that care for confiscated animals.

Small Business Effect: Potential meaningful impact to the extent that court-ordered payments defray costs incurred by small businesses that care for confiscated animals.

Analysis

Current Law: A person may not intentionally mutilate, torture, cruelly beat, or kill an animal or cause or procure such an act. Except in the case of self-defense, a person may not intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit. A person who violates these provisions is guilty of the felony of aggravated cruelty to animals and is subject to maximum penalties of three years imprisonment and/or a \$5,000 fine. As a condition of probation, a court may prohibit a defendant from owning, possessing, or residing with an animal.

A person may not (1) use or allow a dog to be used in a dogfight or for baiting; (2) arrange or conduct a dogfight; (3) possess, own, sell, transport, or train a dog with the intent to use the dog in a dogfight or for baiting; or (4) knowingly allow premises under the person's ownership, charge, or control to be used for dogfighting or for baiting. A person who violates these provisions is guilty of a felony and is subject to up to three years imprisonment and/or a maximum fine of \$5,000.

A person may not (1) use or allow the use of a fowl, cock, or other bird to fight with another animal; (2) possess, with an intent to unlawfully use, an implement of cockfighting or any tool designed to enhance a bird's fighting ability for use in a deliberate bird fighting event; (3) arrange or conduct an event where a fowl, cock, or other bird fights with another fowl, cock, or other bird; (4) possess, own, sell, transport, or train a bird with the intent to use the fowl, cock, or other bird in a cockfight; or (5) knowingly allow premises under the person's control to be used for a fowl, cock, or other bird to fight with another fowl, cock, or other bird. A person who violates these provisions is guilty of a felony and may receive up to three years imprisonment and/or a maximum fine of \$5,000.

The court may order a person convicted of any of these crimes to undergo and pay for psychological counseling.

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. 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.

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 (1) enter the place where the animal is located and supply the animal with necessary food, water, and attention or (2) remove the animal if removal is necessary for the health of the animal.

A person who removes an animal must notify the animal's owner or custodian of the removal and any administrative remedies that may be available to the owner or custodian. 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. An animal is considered a stray if (1) an owner or custodian of the animal was notified 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.

Local Expenditures: The bill reduces local government expenditures to the extent the court-ordered payments defray costs incurred by local government entities that care for confiscated animals. Based on historical information provided by local jurisdictions in response to similar legislation, the extent of this reduction will vary by county, case, and year.

Additional Information

Prior Introductions: HB 93 of 2014 as amended, passed the House and then passed the Senate with additional amendments. However, the two chambers were unable to reconcile their versions of the bill before the conclusion of the 2014 legislative session.

Cross File: SB 393 (Senator Raskin, *et al.*) - Judicial Proceedings.

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

Fiscal Note History: First Reader - February 25, 2015
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