

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 264

(Senator Salling, *et al.*)

Judicial Proceedings

Service Animals - Aggravated Cruelty and False Representation

This bill expands the felony of aggravated cruelty to animals with the creation of a new offense to prohibit the intentional infliction of bodily harm, permanent disability, or death on a service animal, except in cases of self-defense. Violators are subject to a maximum penalty of three years imprisonment and/or a fine of \$5,000. The bill also establishes a new misdemeanor by prohibiting the making of a “false representation” that an animal is a service animal to obtain certain rights, privileges, and admissions under existing law. Violators are subject to a maximum fine of \$500.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions. The number of individuals convicted under the bill cannot be reliably estimated but is expected to be minimal. Enforcement can be handled with existing resources.

Local Effect: Potential minimal increase in local revenues and expenditures due to the bill’s penalty provisions. Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: “False representation” means the knowing and willful (1) concealing, falsifying, or omitting of a material fact; (2) making of a materially false or fraudulent statement; or (3) use of a document that contains a statement of material fact that the user knows to be false or fraudulent.

The bill prohibits making a false representation that an animal is a service animal for the purpose of gaining (1) admittance of the animal to public places, public accommodations, and modes of transportation and (2) other rights or privileges granted to individuals with disabilities.

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 a maximum penalty 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.

Individuals with disabilities, the parents of a minor child with a disability, and service animal trainers who are accompanied by an animal being trained or raised as a service animal have the same right as individuals without disabilities to the full and free use of the roads, sidewalks, public buildings, public facilities, and other public places. They are entitled to full and equal rights and privileges with respect to common carriers and other public conveyances or modes of transportation, places of public accommodations, and other places to which the general public is invited, subject only to any conditions and limitations of general application that are established by law.

Background: The Department of Public Safety and Correctional Services advises that in fiscal 2015, there were 55 probation intakes for animal cruelty violations. In that same year, four individuals were incarcerated for animal cruelty, and the average sentence of those individuals was nine months.

State Revenues: General fund revenues may increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures: 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. 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 \$3,300 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 \$770 per month. Excluding all health care, the average variable costs total \$200 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 Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues may increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local 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.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Department of Public Safety and Correctional Services, Department of State Police, Department of Legislative Services

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