

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 84 (Senator Mathias)
 Judicial Proceedings

Maryland Animal Abuse Registry

This bill requires the Department of Public Safety and Correctional Services (DPSCS) to establish and maintain a central computerized Maryland Animal Abuse Registry of persons convicted of specified animal abuse or neglect offenses. Each registrant must pay an annual registration fee of \$50 for five years. The bill also establishes an Animal Abuse Registry Fund within DPSCS. The fund may be used only for funding the administration of the registry laws by county sheriffs and DPSCS.

Fiscal Summary

State Effect: General fund expenditures increase by about \$253,400 in FY 2018 (\$206,100 for DPSCS to cover the costs of the electronic registry that are not supported with available special funds and \$47,200 for the Administrative Office of the Courts (AOC) for computer upgrades). Special fund revenues increase by \$5,600 in FY 2018 from registration fees; special fund expenditures increase correspondingly. Future years reflect annualization and registry growth. General fund revenues increase minimally from investment earnings. It is assumed that the bill’s penalty provisions do not materially affect State finances.

| (in dollars) | FY 2018 | FY 2019 | FY 2020 | FY 2021 | FY 2022 |
|----------------|-------------|------------|------------|------------|------------|
| GF Revenue | - | - | - | - | - |
| SF Revenue | \$5,600 | \$13,100 | \$20,600 | \$28,100 | \$35,600 |
| GF Expenditure | \$253,400 | \$73,500 | \$76,900 | \$80,500 | \$84,200 |
| SF Expenditure | \$5,600 | \$13,100 | \$20,600 | \$28,100 | \$35,600 |
| Net Effect | (\$253,400) | (\$73,500) | (\$76,900) | (\$80,500) | (\$84,200) |

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Minimal. While the bill increases the workload of local law enforcement units, any potential costs may be offset through annual special fund allotments for the administration of laws pertaining to the registry. It is assumed that the bill’s penalty provisions do not materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: A person is convicted for purposes of the bill when the person (1) is found guilty of a crime by a jury or judicial officer; (2) enters a plea of guilty or *nolo contendere*; (3) is granted probation before judgment under specified circumstances; or (4) is found not criminally responsible.

The animal abuse registry must be updated based on information made available to DPSCS and must include the offender's name, the offender's residential address, the date and description of the crime for which registration is required, and a digital image of the offender. Information contained in the registry must be made available to the public through the Internet, by telephone, by written access, and in person.

A person convicted of an animal abuse crime must register with the county sheriff for the county in which the person is located within 10 days after the conviction. The registrant must update registry information annually and to reflect any change in address within 10 days of the change. The registration requirement for each person remains in effect for five years, unless extended an additional five years for subsequent convictions that occur after initial registration.

The county sheriff must obtain a digital image of the registrant and forward all registration information to DPSCS. In addition to any fine, fee, or penalty levied or imposed, each registrant must pay an annual registration fee of \$50. The sheriff must remit the annual registration fees collected to the State Treasurer for deposit into the Animal Abuse Registry Fund established by the bill.

Up to 65% of the money in the fund must be payable to the counties to fund the collection of information by the county sheriffs, as required by the bill. Up to 35% of the money in the fund must be payable to DPSCS to fund the registry. The fund is subject to audit by the Office of Legislative Audits (OLA).

A person convicted of an animal abuse crime may appeal to the circuit court for the county where the person resides for a determination of the level of danger posed by the offender for the purpose of removing the person's name from the registry. If the court finds that the circumstances of the offense do not indicate a risk of reoffending by the offender or that the offender is a danger to the public, the court must specify in writing the reasons for its finding, notify the offender, and order DPSCS to remove the offender's registration information from the registry.

The bill prohibits a person subject to registration from knowingly failing to register with the county sheriff or providing accurate information. For a first offense, a violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000. A second or subsequent offense is a felony subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000.

An animal shelter, pet store, or an animal breeder must determine whether the name and address of a person seeking to purchase or adopt an animal appears on the registry. The bill prohibits an animal shelter, pet store, or an animal breeder from knowingly offering, selling, delivering, giving, or providing an animal to a person on the registry. For a first offense, a violator is guilty of a misdemeanor and subject to a maximum fine of \$500. A second or subsequent offense is a misdemeanor punishable by a maximum fine of \$5,000.

Current Law: A person may not intentionally mutilate, torture, cruelly beat, or cruelly 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. The court may order a person convicted of this crime to undergo and pay for psychological counseling. 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 dog fight or for baiting; (2) arrange or conduct a dog fight; (3) possess, own, sell, transport, or train a dog with the intent to use the dog in a dog fight or for baiting; or (4) knowingly allow premises under his or her control to be used for dog fighting 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. The court may order a person convicted of this crime to undergo and pay for psychological counseling.

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 cock fighting or any tool designed to enhance a bird's fighting ability or for use in a deliberately conducted 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 cock fight; 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 this crime to undergo and pay for psychological counseling.

A person may not willfully and maliciously give poison or ground glass to a dog, or expose poison or ground glass, with the intent that a dog ingest it. A violator is guilty of a misdemeanor and subject to a maximum \$100 fine for each violation.

Background: The registry created under the bill is similar to the sex offender registry operated and maintained by DPSCS. In 2016, Tennessee became the first state to have a statewide animal abuse registry; however, several local jurisdictions in New York, Illinois, and Florida also have such registries.

According to the Humane Society of the United States (HSUS), all 50 states have felony provisions for animal cruelty: 40 of the 50 state felony provisions apply to first time offenses. In 2012, HSUS reported that at least 22 states, the District of Columbia, and the U.S. Virgin Islands have statutes regarding future ownership of animals by individuals convicted of animal cruelty. The statutes range from outright bans on future ownership to authorization for a court to ban future ownership for a certain amount of time.

In January 2016, the Federal Bureau of Investigation's (FBI) National Incident-Based Reporting System began collecting detailed data from participating law enforcement agencies on acts of animal cruelty, including gross neglect, torture, organized abuse, and sexual abuse. Before 2016, crimes that involved animals were lumped into an "All Other Offenses" category in the FBI's Uniform Crime Reporting (UCR) Program's annual *Crime in the United States* report, a survey of crime data provided by about 18,000 city, county, state, tribal, and federal law enforcement agencies. The UCR for 2016 offenses will not be available until autumn 2017.

A review of the Maryland Sentencing Guidelines Database indicates that in fiscal 2016, there were three convictions for aggravated cruelty in the circuit courts, four convictions for aggravated cruelty related to dog fights, and no convictions for violations relating to cock fights. Data on dog poisoning violations are not available, because the offense is not included in the guidelines database. There were likely convictions for the bill's covered offenses in the District Court. Prior year data from DPSCS involving the bill's covered offenses shows that three to four individuals are sentenced to incarceration with related animal abuse offenses annually. In addition, fiscal 2016 DPSCS data shows that another 13 new cases were under supervision by the Division of Parole and Probation for offenses covered under the bill.

State Revenues: The analysis of a similar bill in 2014 indicated that approximately 380 individuals are charged with related animal abuse offenses annually. Information provided this year by AOC indicates that the number of individuals convicted of related animal abuse offenses each year is between 100 and 200. Although the exact number of registrants is unknown, assuming that 150 persons annually are subject to the bill's \$50 annual registration fee for a five-year period, and accounting for the bill's

October 1, 2017 effective date, special fund revenues to the Animal Abuse Registry Fund total \$5,625 in fiscal 2018. Future year revenues increase by \$7,500 annually through fiscal 2022, reflecting an additional 150 registrants each year. After fiscal 2022, revenues level off, reflecting the expiration of the five-year limitation on registrations from earlier years.

General fund revenues increase minimally from investment earnings of the new fund.

State Expenditures:

Administrative Costs for DPSCS

Establishing an animal abuse registry within DPSCS costs approximately \$206,123 in fiscal 2018, which includes a one-time expenditure of \$122,500 in computer programming expenses and a one-time expenditure of \$25,000 for specialized communication equipment. This estimate reflects the cost of hiring one administrative officer and includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

| | |
|--|------------------|
| Position | 1 |
| Salary and Fringe Benefits | \$53,514 |
| Computer Programming Expenses | 122,500 |
| Other Operating Expenses/Equipment | <u>30,109</u> |
| FY 2018 DPSCS Administrative Expenditures | \$206,123 |

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

Special Funds Available to Offset DPSCS Costs

Up to 65% of special fund revenues must be provided to county governments to fund the collection of registration information by county sheriffs, and up to 35% of special fund revenues must be provided to DPSCS to cover the establishment and administration of the registry. Accordingly, local governments receive up to \$3,656 in annual grants in fiscal 2018, which increases to \$23,156 by fiscal 2022. DPSCS retains up to \$1,969 in fiscal 2018 to partially cover the cost to establish and administer the animal abuse registry. The amount of annual special fund revenues retained by DPSCS increases to \$12,469 by fiscal 2022, which covers approximately 15% of the cost to administer the registry. The following table shows the net effect on general fund expenditures to cover the remaining DPSCS costs.

| | <u>FY 2018</u> | <u>FY 2019</u> | <u>FY 2020</u> | <u>FY 2021</u> | <u>FY 2022</u> |
|-------------------------------|------------------|-----------------|-----------------|-----------------|-----------------|
| Registry Costs | \$206,123 | \$73,498 | \$76,885 | \$80,460 | \$84,238 |
| Available Special Funds | 1,969 | 4,594 | 7,219 | 9,844 | 12,469 |
| Required General Funds | \$204,154 | \$68,904 | \$69,666 | \$70,616 | \$71,769 |

Other Agencies

General fund expenditures for AOC increase by \$47,235 in fiscal 2018 for programming changes to the Judiciary's case management systems. In addition, AOC reports that the bill may increase caseloads due to the new charges connected with registry related violations and, as a result, a corresponding increase in initial appearance hearings, bail reviews, and preliminary hearings held in the District Court, which could lead to an increase in the number of felony charges to be adjudicated in the circuit courts. Any such increases in caseloads can be handled with the existing budgeted resources of the courts.

It is assumed that any additional caseload for the Office of the Public Defender resulting from legal challenges to inclusion in the registry and/or assessment of the annual registration fee can be handled with existing budgeted resources.

Assuming that OLA audits the new special fund as part of its regular audit of DPSCS, it is anticipated that OLA can implement the bill with existing resources.

Local Revenues: Local governments receive 65% of the revenues deposited in the special Animal Abuse Registry Fund in the form of grants to offset the collection of registration information by county sheriffs. The amount of annual grant funding is projected to total \$3,656 in fiscal 2018, growing to \$23,156 by fiscal 2022.

Local Expenditures: While the workload of local law enforcement units may increase, any potential costs may be offset by the distribution of grants from the special fund. A brief survey of local jurisdictions yielded the following additional information:

- Charles County reports that the bill's requirements may require additional manpower hours to the sheriff's office.
- Frederick County reports a positive operational impact under the bill as it establishes a consistent means of collecting and maintaining information of persons convicted of animal cruelty related crimes.
- Montgomery County reports that the county police department generally handles the investigation of animal cruelty and abuse cases. The sheriff's office for the

county does not currently maintain any records relating to animal cruelty or abuse cases.

Additional Information

Prior Introductions: SB 912 of 2014 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. SB 301 of 2012 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 1020, received an unfavorable report by the House Judiciary Committee.

Cross File: None.

Information Source(s): Charles, Frederick, and Montgomery counties; 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; The Humane Society of the United States; *The Washington Post*; Department of Legislative Services

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