

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 40 (Delegate Frush)
 Judiciary

Criminal Law and Procedure - Animal Abuse Registry

This bill requires the Department of Public Safety and Correctional Services (DPSCS) to establish and maintain a central computerized Animal Abuse Registry of persons convicted of specified animal abuse or neglect offenses. Each registrant must pay an annual registration fee of \$50 for 15 years. The bill also establishes an Animal Abuse Registry Fund within DPSCS. The fund may be used only for funding the administration of registry laws by county sheriffs and DPSCS.

Fiscal Summary

State Effect: Special fund revenues from registration fees increase by \$21,500 in FY 2019; future years reflect annualization and additional registrants. Special fund expenditures increase correspondingly. General fund expenditures increase by \$297,200 in FY 2019 to cover costs not covered with special funds; future year expenditures reflect annualization and ongoing costs. Minimal increase in general fund revenues.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	-	-	-	-	-
SF Revenue	\$21,500	\$57,400	\$86,100	\$114,800	\$143,500
GF Expenditure	\$297,200	\$63,400	\$55,400	\$47,900	\$40,500
SF Expenditure	\$21,500	\$57,400	\$86,100	\$114,800	\$143,500
Net Effect	(\$297,200)	(\$63,400)	(\$55,400)	(\$47,900)	(\$40,500)

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

Local Effect: Minimal increase in county expenditures and revenues. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary:

Registration Requirements: The bill requires an individual to register with the Animal Abuse Registry if convicted of:

- misdemeanor animal abuse or neglect;
- attending a dogfight or cockfight;
- felony aggravated animal cruelty;
- felony aggravated animal cruelty – dogfighting;
- felony aggravated animal cruelty – cockfighting;
- abandonment of a domestic animal;
- sodomy or perverted sex acts with an animal;
- poisoning a dog; or
- any of the listed crimes above committed in another federal, state, or foreign jurisdiction.

A person is convicted for purposes of the bill when the person (1) is found guilty of a listed crime, or its attempt, by a jury or judicial officer or (2) enters a plea of guilty or *nolo contendere*.

A person convicted of an animal abuse crime must register with the county sheriff for the county in which the person resides on or before the date that person is sentenced, released, granted probation, or granted a suspended sentence. A convicted person that moves into the State must register within 7 days after the date of establishing temporary or permanent residence or applying for a State driver's license, whichever is earlier. The registrant must update registry information annually and to reflect any address change within 10 days of the change.

The registration requirement for each person remains in effect for 15 years from the date of conviction or date of release, whichever is later. The registration requirement is extended an additional 20 years for each subsequent conviction that occurs after initial registration.

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

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 county sheriff must remit the annual registration fees collected to the State Treasurer for deposit into the Animal Abuse Registry Fund established by the bill.

The Animal Abuse Registry Fund: The Animal Abuse Registry Fund is a special, continuing, nonlapsing fund that consists of annual registration fees collected from registrants and any money made available from other sources. Investment earnings are paid into the general fund. Up to 65% of the money in the new special fund must be payable to 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).

Exemptions from Registration Requirement: A person is no longer subject to registration requirements if the underlying conviction is reversed, vacated, or set aside, or if the person is pardoned for the underlying conviction. In addition, a person convicted of any of the animal abuse crimes under the bill may petition the circuit court for the county in which the person resides for an order exempting the person from the registration requirement. If the court finds that the circumstances of the offense do not indicate a risk of reoffending by the person *and* that the person is not a danger to animals or the public, the court must specify in writing the reasons for its finding and order DPSCS to remove the offender's registration information from the registry.

Prohibited Activity: The bill prohibits a person subject to registration from knowingly (1) possessing an animal while registered; (2) failing to register with the county sheriff; or (3) providing inaccurate information. A violator is guilty of a misdemeanor and subject to a maximum fine of \$2,000.

A 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. In addition, a pet store or an animal breeder is prohibited from knowingly offering, selling, delivering, giving, or providing an animal to a person on the registry. A violator is guilty of a misdemeanor and subject to a maximum fine of \$5,000. An animal shelter or facility is exempt from the bill's requirement to determine a person's registration status and the prohibition on offering an animal to a person on the registry.

Current Law:

Felony Aggravated Animal Cruelty: 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.

Felony Aggravated Animal Cruelty – Dogfighting: 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 his or her 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. The court may order a person convicted of this crime to undergo and pay for psychological counseling.

Felony Aggravated Animal Cruelty – Cockfighting: 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 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 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 this crime to undergo and pay for psychological counseling.

Attending Dogfights or Cockfights: A person may not knowingly attend a deliberately conducted dogfight as a spectator. A person may not knowingly attend as a spectator a deliberately conducted event that uses a fowl, cock, or other bird to fight with another fowl, cock, or other bird. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$2,500. The court may order a person convicted of this crime to undergo and pay for psychological counseling.

Misdemeanor Animal Abuse/Neglect: A person is prohibited from abusing or neglecting an animal, which consists of overdriving or overloading an animal; depriving an animal of necessary sustenance; inflicting unnecessary suffering or pain on an animal; or causing, procuring, or authorizing such an act. If a person has custody or charge of an animal, as an owner or otherwise, the person is prohibited from unnecessarily failing to provide sufficient nutrition, necessary veterinary care, proper drink, air, space, shelter, or protection from the elements.

A person who violates these provisions is guilty of a misdemeanor and is subject to maximum penalties of 90 days imprisonment and/or a \$1,000 fine. As a condition of sentencing, the court may order a defendant to participate in and pay for psychological counseling. As a condition of probation, a court may prohibit a defendant from owning, possessing, or residing with an animal.

Poisoning Dog: 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 fine of \$100 for each violation.

Abandoning Domestic Animal: A person who owns, possesses, or has custody of a domestic animal may not drop or leave the animal on a road, in a public place, or on private property with the intent to abandon the animal. A violator is guilty of a misdemeanor and subject to a maximum fine of \$100.

Unnatural or Perverted Sexual Practice: A person may not (1) take the sexual organ of another *or of an animal* in the person's mouth; (2) place the person's sexual organ in the mouth of another *or of an animal*; or (3) commit another unnatural or perverted sexual practice with another *or an animal*. A person who violates these provisions is guilty of a misdemeanor and is subject to maximum penalties of 10 years imprisonment and/or a \$1,000 fine.

Sodomy: A person who is convicted of sodomy is guilty of a felony and subject to a maximum penalty of imprisonment for 10 years.

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 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.

Chapter 410 of 2017 established the Animal Abuse Emergency Compensation Fund, administered by the Governor's Office of Crime Control and Prevention (GOCCP), to assist in paying costs associated with the removal and care of animals impounded under the State's animal abuse and neglect law. The fund consists primarily of fines levied as a result of conviction of an animal abuse crime and money appropriated in the State budget. GOCCP receives up to \$50,000 each fiscal year from the fund to offset its administrative costs.

DPSCS reports that in fiscal 2017, there were 59 persons under supervision and 6 incarcerated individuals that would qualify for inclusion on the registry created by the bill. The bill also applies to individuals incarcerated in local jail facilities or who were convicted but not sentenced to incarceration or probation by a court.

State Revenues: Information provided this year by the Administrative Office of the Courts (AOC) indicates that over the past three fiscal years, an average of 1,147 animal abuse violations were adjudicated annually in the District Court. Data on the percentage of these violations resulting in convictions was not available in time for this analysis. In addition, this estimate does not include (1) any additional violations heard in the circuit courts and (2) violations of the sodomy and perverted sex act statutes, since information to determine which portion of these cases involved animal abuse is unavailable. However, the number of offenders that are required to register under the bill due to convictions for these offenses is expected to be a relatively small portion of the number of total violations covered under the bill.

Under the bill, an individual must register annually and pay a \$50 registration fee for a 15-year period. The exact number of registrants is unknown. However, *under one set of assumptions*, assuming half of the 1,147 average annual violations result in conviction, 574 individuals are required to register annually. Accordingly, special fund revenues to the Animal Abuse Registry Fund increase by \$21,525 in fiscal 2019, which accounts for the bill's October 1, 2018 effective date. Future year revenues increase by \$28,700 annually, reflecting an additional 574 registrants each year. Revenues level off after 15 years, reflecting the expiration of the registration requirement for affected individuals.

General fund revenues may increase minimally from investment earnings of the new fund. It is assumed that the bill's penalty provisions do not materially affect State revenues.

State Expenditures:

Administrative Costs for DPSCS, Partially Offset by Registration Fee Revenues

DPSCS administrative expenditures increase by \$235,155 in fiscal 2019, which accounts for the bill’s October 1, 2018 effective date. This estimate reflects the cost of establishing an animal abuse registry within DPSCS, which includes a one-time expenditure of \$168,000 in computer programming expenses and the cost of hiring one administrative officer to maintain the registry. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$51,296
Computer Programming Expenses	168,000
Other Operating Expenses/Equipment	<u>15,859</u>
FY 2019 DPSCS Administrative Expenditures	\$235,155

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

Up to 35% of special fund revenues from registration fees must be provided to DPSCS to fund the establishment and administration of the registry. Accordingly, DPSCS retains up to an estimated \$7,534 in fiscal 2019 to partially cover the cost to establish and administer the registry. The amount retained by DPSCS increases to an estimated \$50,225 by fiscal 2023, which covers approximately 55% of the cost to administer the registry in that year. The following table shows the net effect on general fund expenditures to cover the remaining DPSCS costs not covered by registration fees.

	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Registry Costs	\$235,155	\$83,447	\$85,502	\$88,084	\$90,763
Available Special Funds	7,534	20,090	30,135	40,180	50,225
Required General Funds	\$227,621	\$63,357	\$55,367	\$47,904	\$40,538

Other Agencies

Administrative Office of The Courts: General fund expenditures for AOC increase by \$69,620 in fiscal 2019 only for programming changes to the Judiciary’s case management systems. In addition, AOC reports that the bill may increase caseloads due to the new
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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.

Office of the Public Defender: 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.

Office of Legislative Audits: 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 Fiscal Effect: While the bill increases the workload of local law enforcement units, any potential costs are likely to be offset by grants from the State. As noted above, counties receive 65% of the revenues deposited in the 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 \$13,991 in fiscal 2019, growing to \$93,275 by fiscal 2023. Overall, the bill is not expected to significantly affect local government finances.

Howard County advises it already has a procedure in place for collecting and remitting fees. Baltimore County advises it may need an additional records processor, similar to an existing position which manages its sex offender registry.

It is assumed that the bill's penalty provisions do not materially affect local government operations or finances.

Additional Information

Prior Introductions: SB 84 of 2017, a similar bill, received an unfavorable report from the Senate Judicial Proceedings Committee. SB 912 of 2014, also a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. SB 301 of 2012, another similar bill, 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): Anne Arundel, Baltimore, Garrett, Howard, and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Maryland Department of Health; Department of Juvenile Services; Department of Public Safety and Correctional Services; The Humane Society of the United States; Federal Bureau of Investigation; *The Washington Post*; Department of Legislative Services

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