

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 1038

(Senator Smith, *et al.*)

Judicial Proceedings

Judiciary

Criminal Law – Animal Cruelty – Sentencing Conditions

This bill authorizes a court, as a condition of sentencing, to prohibit a person convicted of the following offenses from owning, possessing, or residing with an animal for a specified period of time: (1) felony dogfighting; (2) felony cockfighting; or (3) possession of an implement of dogfighting. The bill also clarifies that a court must specify a period of time when it uses its authority to prohibit a person convicted of felony aggravated animal cruelty from owning, possessing, or residing with an animal.

Fiscal Summary

State Effect: None. The change is procedural in nature and does not directly affect governmental finances.

Local Effect: None. The change is procedural in nature and does not directly affect local governmental finances.

Small Business Effect: None.

Analysis

Current Law:

Felony Aggravated Animal Cruelty

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.

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 the person's control to be used for dogfighting or for baiting. A person who violates these provisions is guilty of a felony and is subject to maximum penalties of three years imprisonment and/or a \$5,000 fine.

Misdemeanor Possession of an Implement of Dogfighting

A person is prohibited from possessing, with the intent to unlawfully use, an implement of dogfighting. A dogfighting implement includes (1) a breaking stick; (2) a cat mill; (3) a springpole; (4) a fighting pit or other confined area designed to contain a dogfight; (5) a breeding stand; or (6) any other instrument or device commonly used for training, preparation, breeding, and conditioning for dogfights. Each implement of dogfighting that is possessed unlawfully is considered a separate offense. A person who violates this provision is guilty of a misdemeanor and subject to maximum penalties of 90 days imprisonment and/or a \$5,000 fine.

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 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 is subject to maximum penalties of three years imprisonment and/or a \$5,000 fine.

As a condition of sentencing, the court may order a person convicted of any of these crimes to undergo and pay for psychological counseling.

The offenses listed above do not include customary and normal veterinary and agricultural husbandry practices, including (1) dehorning, castration, tail docking, and limit feeding;

(2) research conducted in accordance with the federal Animal Welfare Act or the federal Health Research Extension Act; (3) activities that may cause unavoidable physical pain to an animal, including food processing, pest elimination, animal training, and hunting, if the person performing the activity uses the most humane method reasonably available; or (4) normal human activities in which the infliction of pain to an animal is purely incidental and unavoidable.

Background: According to the Humane Society of the United States (HSUS), all 50 states have felony provisions for animal cruelty; 46 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.

The District Court advises that in fiscal 2017, in both the circuit court and the District Court, there were 192 violations of felony aggravated animal cruelty, 27 violations of felony dogfighting, and 11 violations of felony cockfighting. In addition, there was 1 violation in the District Court for possessing an implement of dogfighting.

The Maryland State Commission on Criminal Sentencing Policy reports that in fiscal 2017, the commission received information on the following individuals convicted in the circuit courts: 11 individuals convicted of aggravated animal cruelty – general; 10 individuals convicted of aggravated cruelty – dogfighting; and 2 individuals convicted of aggravated cruelty – cockfighting.

Additional Information

Prior Introductions: None.

Cross File: HB 212 (Delegate Moon, *et al.*) – Judiciary

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland SB 1038/ Page 3

State's Attorneys' Association; Department of Public Safety and Correctional Services;
The Humane Society of the United States; Federal Bureau of Investigation; Department of
Legislative Services

Fiscal Note History: First Reader - February 20, 2018
mag/kdm Third Reader - March 29, 2018
Revised - Amendment(s) - March 29, 2018

Analysis by: Michelle Davis

Direct Inquiries to:
(410) 946-5510
(301) 970-5510