

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 760

(Senator Ready)

Judicial Proceedings

Criminal Law – Animal Cruelty – Petition for Costs for Care of Seized Animal

This bill authorizes a specified officer, agent, or other official to file a petition against the owner or custodian of an animal that has been seized to protect the animal from cruelty, for the reasonable costs of caring for the animal. Reasonable costs of care must be limited to \$15 per day per animal, in addition to necessary medical care, as specified. A court must hold a hearing on a petition and must order the owner or custodian to pay the reasonable costs of care, according to a monthly payment schedule, if the petition is granted. If an owner or custodian fails to timely pay the required costs, the seized animal is automatically forfeited to the petitioner. Additionally, payment by the owner or custodian for reasonable costs of care does not prevent the petitioner from providing necessary medical care, including euthanizing the seized animal if a written opinion is obtained from a licensed veterinarian that it is necessary to alleviate the animal's suffering.

Fiscal Summary

State Effect: General fund expenditures may increase by \$12,000 in FY 2022 only. Revenues are not affected.

Local Effect: Local government expenditures decrease to the extent that court-ordered payments defray costs incurred by local government entities that care for seized animals. Local revenues are not directly affected.

Small Business Effect: None.

Analysis

Bill Summary: If an animal is seized under specified criminal law provisions, to protect the animal from cruelty, an officer or authorized agent of a humane society, or a police officer or other public official required to protect animals, may file a petition against the owner or custodian of the animal with the court in the county where seizure occurred for the reasonable costs of caring for the animal, including the provision of food, water, shelter, and medical care. Reasonable costs of care must be limited to \$15 per day per animal, in addition to necessary medical care, as determined by a licensed veterinarian and documented by invoices.

Petition and Hearing Requirements

A petition must be filed within seven days after criminal charges are filed against the owner or custodian for an animal cruelty violation. Within seven days after filing a petition, the petitioner must serve the petition on the owner or custodian, as specified.

On receipt of a petition, the court must set a date for a hearing to determine the responsibility of the owner or custodian for the reasonable costs of care for the seized animal. A hearing must be scheduled not less than 14 days, but not more than 21 days, from the service of the petition, and the petitioner must serve notice of the hearing date on the owner or custodian.

At the hearing, the petitioner must present evidence that demonstrates (1) the amount of reasonable costs of care for the seized animal and (2) that the seizure of the animal was warranted. The owner or custodian must have the opportunity to object to the petition at the hearing. Within five days of the commencement of the hearing, the court must issue an order granting or denying the petition.

Requirements Relating to Court Orders and Other Costs

If the court grants the petition, the court must order the owner or custodian to pay any filing fees paid by the petitioner to file the petition and the amount of reasonable costs of care. The court must order the owner or custodian to make the required payments according to a specified monthly schedule, and the owner or custodian's ability to pay may not affect the court's determination as to the amount of the reasonable costs of care. The court, on motion by a petitioner or the owner or custodian, and after a hearing, may adjust the amount of costs for care.

Payment of reasonable costs of care by the owner or custodian may not prevent the petitioner from transferring the seized animal to another facility or caretaker if (1) the court orders the transfer or (2) the animal's owner surrenders all rights to the animal.

A petitioner may not be reimbursed for costs of care for which the owner or custodian provides medical records, signed by a licensed veterinarian, that show that the costs are unnecessary.

A court order for costs must terminate if the animal's owner surrenders all rights to the animal or the seized animal is no longer under the control of the petitioner.

Failure to Pay

If an owner or custodian fails to timely pay any of the amounts ordered, the seized animal for which reasonable costs of care were ordered is automatically forfeited to the petitioner, and the petitioner obtains all rights and privileges in and over the animal.

Medical Care and Euthanasia

Payment for reasonable costs of care by the owner or custodian does not prevent the petitioner from providing necessary medical care, including euthanizing the seized animal. The petitioner may euthanize a seized animal if the petitioner obtains a written opinion from a licensed veterinarian who states it is necessary to alleviate the animal's suffering.

Civil Liability

A petitioner is immune from civil liability for damages alleged by an owner or a custodian concerning the care provided by the petitioner, except for intentional misconduct or gross negligence resulting in the death of the seized animal.

Current Law:

Conditions of Sentencing

As a condition of sentencing or probation for a defendant convicted of animal abuse or neglect, felony aggravated cruelty to animals (general), felony aggravated cruelty to animals (dogfighting), or felony aggravated cruelty to animals (cockfighting), a court may (1) order the defendant to participate in and pay for psychological counseling; (2) order the defendant to pay, in addition to any other fines and costs, all reasonable costs incurred in removing, housing, treating, or euthanizing an animal confiscated from the defendant; and (3) prohibit a defendant from owning, possessing, or residing with an animal, as specified.

Removal/Seizure of Mistreated Animals

Under § 10-615 of the Criminal Law Article, 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 enters a place to assist an animal under these circumstances is not liable for the entry. However, a person may not enter into a private dwelling for these purposes and is prohibited from removing a farm animal without the prior recommendation of a veterinarian licensed in the State.

A person who removes an animal under these circumstances must notify the animal's owner or custodian of the removal of the animal 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.

As applied to crimes relating to animals, "cruelty" means the unnecessary or unjustifiable physical pain or suffering caused or allowed by an act, omission, or neglect including torture and torment. "Humane society" means a society or association incorporated in Maryland for the prevention of cruelty to animals.

State Expenditures: General fund expenditures may increase by \$11,976 in fiscal 2022 only, reflecting potential programming costs for the Judiciary, to create new forms and notices associated with the bill.

Local Expenditures: Local government expenditures decrease to the extent that the bill's provisions defray costs incurred by local government entities that seize animals to protect them from animal cruelty. The extent of any such decrease in any given jurisdiction depends on the number of seizures of animals in the jurisdiction, the frequency of court-ordered payment of reasonable costs of care, and actual costs paid by owners or custodians of the seized animals.

Additional Comments: According to the Judiciary, in fiscal 2020, there were 2,412 animal cruelty case filings (1,637 in the District Court and 775 in the circuit courts), which led to 202 guilty dispositions (87 in the District Court and 115 in the circuit courts).

The Judiciary does not track data on the number of animal cruelty cases that involve the removal/seizure of an animal.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1080 (Delegate Moon) - Judiciary.

Information Source(s): Harford and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of State Police; Department of Legislative Services

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