

Department of Legislative Services  
Maryland General Assembly  
2024 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 667  
Judiciary

(Delegate Embry, *et al.*)

Rules

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**Criminal Law - Crimes Relating to Animals - Conviction and Sentencing**

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This bill establishes that each animal harmed in a violation of Title 10, Subtitle 6 of the Criminal Law Article (crimes against animals) is a separately chargeable offense and must be deemed an individual victim for purposes of the sentencing guidelines stacking rule. The bill specifies that (1) a conviction for a violation of the subtitle cannot merge with a conviction for any other crime based on the act establishing the violation and (2) a sentence imposed for a violation of the subtitle may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation. The bill clarifies that specified crimes related to animals do not apply to hunting activities that are completed in accordance with Title 10 (Wildlife) of the Natural Resources Article and exempts fishing activities completed in accordance with Title 4 (Fish and Fisheries) of the Natural Resources Article from those same animal-related crimes.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's effect on charging and sentencing practices, as discussed below.

**Local Effect:** Potential minimal increase in local revenues and expenditures due to the bill's effect on charging and sentencing practices, as discussed below.

**Small Business Effect:** None.

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## Analysis

**Current Law:** Title 10, Subtitle 6 of the Criminal Law Article contains a variety of offenses concerning the improper treatment of animals. **Exhibit 1** lists those offenses and their maximum penalties.

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### Exhibit 1 Title 10, Subtitle 6 of the Criminal Law Article Offenses and Maximum Penalties

<u>Offense</u>	<u>Maximum Penalty</u>
§ 10-604 – Abuse or neglect of an animal	Misdemeanor – 90 days imprisonment and/or \$1,000 fine
§ 10-605 – Attending dogfights or cockfights	Misdemeanor – 1 year imprisonment and/or \$2,500 fine
§ 10-606 – Aggravated cruelty to animals	Felony – 3 years imprisonment and/or \$5,000 fine
§ 10-607 – Prohibited activities related to dogfights	Felony – 3 years imprisonment and/or \$5,000 fine
§ 10-607.1 – Possession of an implement of dogfighting	Misdemeanor – 90 days imprisonment and/or \$5,000 fine
§ 10-608 – Prohibited activities related to cockfights	Felony – 3 years imprisonment and/or \$5,000 fine
§ 10-610 – Giving a live animal as a prize	Misdemeanor – \$500 fine
§ 10-611 – Killing of a dog or cat by prohibited means	Misdemeanor – \$500 fine
§ 10-612 – Abandoning a domestic animal	Misdemeanor – \$100 fine
§ 10-613 – Sale of puppy or kitten less than 8 weeks old without its dam	Misdemeanor – \$500 fine
§ 10-614 – Transfer or coloring of a chick less than three weeks old	Misdemeanor – \$25 fine
§ 10-617 – Disposal of a domestic animal	First offense – \$500 civil fine Subsequent offense – Misdemeanor – \$500 fine
§ 10-618 – Poisoning dog	Misdemeanor – \$100 fine
§ 10-619 – Dangerous dog	Misdemeanor – \$2,500 fine
§ 10-620 – Interference with a racehorse	Misdemeanor – 1 year imprisonment and/or \$1,000 fine

<b><u>Offense</u></b>	<b><u>Maximum Penalty</u></b>
§ 10-621 – Import, offer, or transfer of dangerous animal	Misdemeanor – \$1,000 fine if an individual, \$10,000 fine if not an individual
§ 10-622 – Injuring or trapping a carrier pigeon	Misdemeanor – \$10 fine per violation
§ 10-623 – Leaving dog outside and unattended by use of restraints	Misdemeanor – 90 days imprisonment and/or \$1,000 fine (unless otherwise specified civil offense)
§ 10-624 – Unauthorized surgery on dogs	Misdemeanor – 90 days imprisonment and/or \$1,000 fine (first offense) or 180 days imprisonment and/or \$5,000 fine (subsequent offense)
§ 10-625 – Unauthorized surgical devocalization of cat or dog	Misdemeanor – 90 days imprisonment and/or \$1,000 fine (first offense); or 1 year imprisonment and/or \$2,000 fine (subsequent offense)
§ 10-625.1 – Declawing cats	Civil offense – \$1,000 fine
§ 10-626 – Killing or harming a service animal	Misdemeanor – 2 years imprisonment and/or \$2,500 fine
§ 10-626 – Interfering with use of a service animal	Misdemeanor – 1 year imprisonment and/or \$1,000 fine

Source: Department of Legislative Services

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### *Exceptions to Crimes Against Animals*

Sections 10-601 through 10-608 and § 10-626 of the Criminal Law Article (abuse or neglect of an animal, aggravated cruelty to animals, dogfighting, cockfighting, and killing or harming a service animal) do not apply to (1) customary and normal veterinary and agricultural husbandry practices, including dehorning, castration, tail docking, and limit feeding; (2) research conducted in accordance with protocols approved by an animal care and use committee, as required under the federal Animal Welfare Act or the federal Health Research Extension Act; (3) an activity 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.

### *Sentencing Guidelines – Stacking Rule*

The State’s sentencing guidelines apply to criminal cases prosecuted in a circuit court. However, jury trial prayers and appeals from the District Court are excluded from guidelines coverage unless a presentence investigation is ordered. Pursuant to the sentencing guidelines, when there is a criminal event with multiple victims and not more than one seriousness category I or II offense, the person completing the sentencing guidelines worksheet must add the highest of the upper limits of the guidelines ranges for each victim to find the correct overall range for the criminal event. Animals are not considered victims for the purposes of applying the multiple victims stacking rule.

**State Fiscal Effect:** Comprehensive information on current charging and sentencing practices in animal crimes cases is not readily available at this time. However, given the case volume and conviction statistics listed below and judicial discretion in sentencing, it is estimated that the bill (1) may result in a minimal increase in general fund revenues from fines imposed in the District Court and (2) may result in a minimal increase in general fund expenditures should more individuals be committed to State correctional facilities, if individuals are committed to State correctional facilities for longer periods of time, or if the State has to make increased payments to counties for reimbursement of costs for incarcerated individuals.

The Judiciary reports the following information for the District Court in fiscal 2023:

- Animal Cruelty (§ 10-604): 1,920 violations and 170 guilty dispositions;
- Aggravated Cruelty to Animals (§ 10-606): 84 violations and 0 guilty dispositions;
- Animal Cruelty – Cockfighting (§ 10-608): 9 violations and 0 guilty disposition; and
- Possession of a Cockfighting Implement (§10-608): 1 violation and 0 guilty dispositions.

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) reports the following data for individuals sentenced in the State’s circuit courts during fiscal 2023:

- 1 individual was sentenced to 5 counts under § 10-607 of the Criminal Law Article (dogfights); the same individual was sentenced to 15 counts under § 10-604 of the Criminal Law Article (animal cruelty);
- 21 individuals were sentenced to 54 counts under § 10-604 of the Criminal Law Article (animal cruelty); out of these 21 individuals, 3 individuals had 2 counts each, 1 individual had 3 counts, 3 individuals had 4 counts, 1 individual had 20 counts, and 13 individuals had 1 count (totaling 54 counts across 21 individuals); and

- 14 individuals were sentenced to 19 counts under §10-606 of the Criminal Law Article (aggravated animal cruelty); out of these individuals, 1 individual was sentenced to 3 counts (this individual also had 1 count of § 10-604), and 1 individual had 4 counts (this individual also had 1 count of § 10-604). Twelve individuals had 1 count under § 10-606; out of these 12 individuals with 1 count, 1 individual also had 1 count of § 10-604.

According to MSCCSP, of the 33 sentencing events in the circuit courts during 2017 through 2021 that involved multiple counts of crimes against animals, 28 sentencing events involved only one criminal event and 5 sentencing events involved multiple criminal events. Of the 28 multiple count sentencing events that involved a single criminal event, 22 (79%) imposed consecutive sentences for 2 or more counts of crimes against animals.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per incarcerated individual, including overhead, is estimated at \$5,110 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. The State provides assistance to the counties for locally sentenced incarcerated individuals and for (1) incarcerated individuals who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced incarcerated individuals confined in a local detention center between 12 and 18 months; and (3) incarcerated individuals who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from 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 if the bill increases fines imposed in the circuit courts in animal crimes cases.

**Local Expenditures:** Expenditures may increase minimally as a result of the bill's provisions. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. *Per diem* operating costs of local detention facilities have ranged from approximately \$90 to \$300 per incarcerated individual in recent years.

## **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** SB 17 (Senator West) - Judicial Proceedings.

**Information Source(s):** Baltimore City; Allegany, Harford, Montgomery, Talbot, and Wicomico counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of Legislative Services

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