

**Department of Legislative Services**  
**Maryland General Assembly**  
**2001 Session**

**FISCAL NOTE**  
**Revised**

House Bill 649      (Delegate Montague, *et al.*)  
Judiciary

Judicial Proceedings

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**Crimes - Aggravated Cruelty to Animals**

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This bill creates the felony of “*Aggravated Cruelty to Animals.*” The bill does not apply to customary and normal veterinary and agricultural husbandry practices or research conducted in accordance with protocols approved by an animal care and use committee, as required by federal laws. In activities in which physical pain may be unavoidable, as in food processing, pest elimination, animal training, or hunting, this bill defines cruelty as a failure to employ the most humane method reasonably available.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund expenditures due to the bill’s increased incarceration penalty provisions.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** This bill declares that it is the intent of the General Assembly that all animals be protected from intentional cruelty if they are privately owned; strays; domesticated; feral; farm animals; corporately or institutionally owned; in privately, locally, State, or federally funded scientific or medical activities; or otherwise located in the State.

Specifically, the bill provides that the felony of *aggravated cruelty to animals* consists of one of the following acts: (1) intentional mutilation, torture, cruel beating, or cruelly killing an animal; (2) causing, procuring, or authorizing an act listed in item (1) of this list; (3) using or allowing a dog to be used in or arranging or conducting a dogfight; (4) using or allowing to be used a bird, fowl, or cock to fight with another animal in a cockfight; or (5) except in the case of self-defense, intentionally inflicting bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.

Violators are subject to maximum penalties of a fine of \$5,000 and/or imprisonment for three years. In addition, as a condition of sentence, a convicted person must submit to, and pay for, psychological counseling.

The bill prohibits a person from being held liable for criminal prosecution for normal human activities in which the infliction of pain to an animal is purely incidental and unavoidable.

The bill does not substantively alter the following existing misdemeanors to: (1) overdrive or overload an animal; (2) deprive an animal of necessary sustenance; (3) cause, procure, or authorize an act prohibited in item (1) or (2) of this list; (4) with the charge or custody of an animal, as owner or otherwise inflict unnecessary suffering or pain on an animal, or unnecessarily fail to provide an animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather; or (5) knowingly attend a deliberately conducted dogfight as a spectator.

The bill also grants the District Court exclusive original jurisdiction for all misdemeanors and felonies in violation of these provisions.

**Current Law:** Under the subtitle “*Cruelty to Animals*,” cruelty and mutilation are misdemeanors. Persons who commit animal cruelty are subject to maximum penalties of a fine of \$1,000 and/or imprisonment for 90 days. Persons who commit animal mutilation are subject to maximum penalties of a fine of \$5,000 and/or imprisonment for three years, and may be ordered by a court, as a condition of sentence, to submit to, and pay for, psychological counseling.

**State Expenditures:** Changing some animal cruelty crimes from misdemeanors to felonies means some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions. However, without knowing whether the prospect of a jury trial might spur more plea bargains and affect actual sentencing practices for the current law misdemeanors, unless there is a major change in sentencing patterns, expenditures relating to incarceration

should not be materially affected. The Division of Correction (DOC) reports that there were an insignificant number of imprisonment intakes based on cruelty to animal offenses and that the number of probation intakes for such offenses was slightly higher, but fewer than 25.

In any event, general fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to DOC facilities for the new felony offense and increased payments to counties for reimbursement of inmate costs. The number of people convicted of any of these crimes is expected to be minimal.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,700 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$288 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2002 are estimated to range from \$9 to \$52 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

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### **Additional Information**

**Prior Introductions:** A similar bill, HB 86, was introduced during the 2000 session. It received an unfavorable report from the Judiciary Committee. In 1999, HB 711 was introduced as a similar proposal, but was enacted (Chapter 448 of 1999) to establish a new misdemeanor prohibition against intentionally inflicting bodily harm, disability, or death on a law enforcement animal.

**Cross File:** SB 356 (Senator Jimeno, *et al.*) – Judicial Proceedings.

**Information Source(s):** Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

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