

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 355 (Delegate Boschert, *et al.*)
Environmental Matters

Dogs - Licensing, Procedures, and Penalties - Debarking or Silencing

This bill prohibits a dog license from being issued unless the owner of the dog states on the application specified identifying information relating to the owner and the dog, including whether the dog has been surgically debarked or silenced. The bill requires dog licensing officials to provide information to the Department of Health and Mental Hygiene (DHMH) regarding license processing.

A person is prohibited from surgically debarking or silencing, or causing the debarking or silencing of any dog unless it is to protect the life or health of the dog. A person who unlawfully causes the surgical debarking or silencing of a dog is guilty of a felony and is subject to imprisonment for up to five years, a fine not exceeding \$5,000, or both. A veterinarian who fails to prepare and file with DHMH a written statement on the veterinary basis for surgically debarking or silencing a dog is subject to disciplinary action by the State Board of Veterinary Medical Examiners (SBVME). A person who knowingly and willfully provides false information on a dog license application about whether a dog has been surgically debarked or silenced is guilty of a misdemeanor. The violator is subject to imprisonment for up to one year, a fine not exceeding \$1,000, or both. A person who sells or donates a surgically debarked or silenced dog without informing the prospective dog owner is guilty of a misdemeanor and is subject to imprisonment for up to one year, a fine not exceeding \$1,000, or both.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: Potential minimal.

Analysis

Current Law: State law does not specifically prohibit the surgical debarking or silencing of dogs. The performance of surgical operations by veterinarians is generally excluded from what is commonly understood to be cruel or vicious treatment of animals.

“Cruelty” is defined as the unnecessary or unjustifiable physical pain or suffering caused or allowed by an act, omission, or neglect. A person is prohibited from the infliction of aggravated cruelty on animals. A person may not intentionally mutilate, torture, cruelly beat, or cruelly kill an animal. A person may not cause, procure, or authorize such an act. A person who commits the crime of aggravated cruelty to animals is guilty of a felony and is subject to imprisonment for up to three years, a fine not exceeding \$5,000, or both. As a condition of sentencing, a court may order a defendant to participate in and pay for psychological counseling.

County governments have responsibility for the licensing of dogs. Provisions vary depending on the county. For some counties, specifications regarding the terms, licensing forms, and licensing fees are set in statute, while other counties have authority to determine some or all of those provisions. For those counties that enforce the dog licensing provisions set forth in statute, any person found violating or refusing to comply is guilty of a misdemeanor and is subject to a fine of at least \$5, but not less than \$25, or imprisonment in the county jail for up to 30 days, or both. The State’s Attorney and the sheriffs of the counties must prosecute all persons found violating dog licensing provisions.

SBVME regulates the practice of veterinary medicine, including the licensing and disciplining of veterinarians. SBVME may refuse, suspend, or revoke any application or license, and censure or place on probation any licensed veterinarian for specified reasons.

Background: According to the Association of Pet Dog Trainers, a growing number of states have enacted or considered legislation that would make surgical debarking or silencing of a dog a crime. New Jersey enacted such a law in 2002. Ohio law prohibits the surgical debarking or silencing of vicious dogs. In addition to Maryland, other states that are considering debarking legislation are Mississippi and Rhode Island.

State Effect: General fund revenues could increase minimally as a result of the bill’s monetary penalty provisions from cases heard in the District Court.

State Expenditures: DHMH advises that it would need one data entry clerk to enter information from local governments regarding dog licenses. However, DHMH offered little justification for an additional staff person. This bill requires each local government to submit a report regarding registration numbers for dog licenses on a monthly basis. At most, staff would be required to enter 24 reports once a month. Also, arrangements could be made for electronic transmission or computer formats that could preload much of the information. Accordingly, the Department of Legislative Services (DLS) believes that the requirements of this bill, including the processing of reports from veterinarians who perform a debarking operation, could be handled with existing resources. The Department of Agriculture did not respond to the request for fiscal impact information, but DLS advises that the bill's requirements could be handled with existing resources. The Department of Public Safety and Correctional Services also did not respond to a request for information, but DLS projects a minimal impact, as discussed below.

General fund expenditures could increase minimally as a result of the bill's incarceration penalties due to more people being committed to Division of Correction (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,850 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 \$350 per month. Excluding medical care, the average variable costs total \$120 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 2004 are estimated to range from \$14 to \$59 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. 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 DOC.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Prince George's County advises that it would have to modify licensing applications and reports to comply with the bill, resulting in a minor fiscal

impact. Allegany County advises that compliance with the bill would cost about \$14,400. Baltimore City advises that the bill's requirements could be handled with existing resources.

Expenditures could increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$28 to \$84 per inmate in fiscal 2004.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Wicomico County, Allegany County, Montgomery County, Prince George's County, Talbot County, Department of Health and Mental Hygiene, Baltimore City, American Kennel Club, Association of Pet Dog Trainers, Animal Protection Institute, Humane Society of the United States, Department of Legislative Services

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