

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 171

(Senator Klausmeier, *et al.*)

Judicial Proceedings

**Crimes - Prohibition against Interfering with, Stealing, Injuring, or Killing
Service Animals (Langer's Law)**

This bill makes it a crime to interfere with, steal, injure, or kill a “service animal.” The bill establishes penalties and, in addition, requires a person convicted of the crime to pay restitution. A service animal is an animal trained for the purposes of assisting or accommodating a disabled person with a sensory, mental, or physical disability and includes service dog, as defined in State law.

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 expenditures due to the bill’s penalty provision.

Small Business Effect: None.

Analysis

Bill Summary: This bill provides that a person may not recklessly interfere with the lawful use of a service animal or steal, injure, or cause the death of a service animal. A person may not intentionally injure or kill a service animal or intentionally allow an animal under the person’s immediate control to injure or kill a service animal.

A person who violates the provisions against interference, stealing, injury, or causing the death of a service animal is guilty of a misdemeanor and is subject to imprisonment for

up to one year and/or a fine of up to \$3,000. A person who violates the prohibition against intentionally injuring, killing, or allowing an animal under the person's immediate control to injure or kill a service animal is guilty of a misdemeanor and is subject to imprisonment for up to one year and/or a fine of up to \$6,000.

The bill provides that in addition to the penalties set forth, a court must order a person who is convicted of any of these crimes to pay restitution for all damages that arise out of or are related to the violation. This includes incidental and consequential damages incurred by the service animal's user and owner. Restitution includes the value of the service animal, the cost to replace, train, or retrain the service animal; veterinary and other medical expenses, including boarding; and lost wages or income during the period the user is without the services of the service animal.

Current Law: It is State policy to encourage and enable those who are blind, visually handicapped, deaf, or hearing impaired to participate fully in the social and economic life of the State and engage in remunerative employment. The blind, visually handicapped, deaf, and hearing impaired have the same right as persons not so handicapped to the full and free use of streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places. Access rights apply to the full and equal accommodations, advantages, facilities, and privileges of common carriers, lodging places, and places of public accommodation to which the general public is invited, subject to the laws that apply to all persons. Any person or persons, firm, corporation, or agent who denies or interferes with the admittance to or enjoyment of public facilities or otherwise interferes with the rights of a blind, visually handicapped, deaf, or hearing impaired person is guilty of a misdemeanor and subject to a maximum fine of \$500 for each offense.

A mobility-impaired person may be accompanied by a service dog especially trained for that purpose in any place where a blind or visually handicapped, deaf, or hearing impaired person may be accompanied by a service dog. Any person who denies or interferes with the admittance of a service dog accompanying a mobility-impaired person is subject to the penalty set forth above.

A person may not intentionally mutilate, torture, cruelly beat, or cruelly kill an animal, or authorize such an act. Except in the case of self-defense, a person may not 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 an animal and is subject to imprisonment not exceeding three years, a maximum fine of \$5,000, or both. As a condition of sentencing, a court may order a convicted defendant to participate in and pay for psychological counseling.

Background: The Americans with Disabilities Act (ADA) defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an

individual with a disability. Animals meeting this definition are considered service animals under ADA, whether or not they have been licensed or certified by state or local governments. Under ADA, privately-owned businesses that serve the public, such as hotels, stores, taxis, theatres, concert halls, and sports facilities, must allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed.

While “seeing eye dogs” are the most familiar type of service animal, there are other types of service animals that assist people by alerting them to sounds, pulling wheelchairs, assisting with balance, or picking things up for those with mobility impairments. For example, ferrets have been trained to help autistic children, and capuchin monkeys have been trained to assist quadriplegics.

In 2001, the State of Washington enacted “Layla’s Law” which made it illegal for a person or his or her dog to interfere with or injure another guide dog or service animal. This law was enacted in response to the intimidation Hy Cohen and his guide dog, Layla, suffered when they were prevented from leaving their home in Mountlake Terrace, Washington due to an aggressive dog that was allowed to run loose in the neighborhood. During the ceremony to enact “Layla’s Law,” Governor Locke noted that a recent study conducted by “Guide Dogs for the Blind” estimated that 31% of the people who rely on guide dogs report incidents of intimidation and harassment by loose dogs. Recently, the states of Delaware, Florida, Hawaii, Kansas, Maine, and New York enacted legislation to provide greater protections to service animals.

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

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. 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 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC 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.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration 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 \$29 to \$97 per inmate in fiscal 2005.

Additional Information

Prior Introductions: None.

Cross File: HB 437 (Delegate King, *et al.*) – Judiciary.

Information Source(s): Department of Public Safety and Correctional Services, U.S. Department of Justice, Northwest ADA/IT Center, autism.about.com, Animal Protection Institute, Michigan State University (Animal Legal and Historical Center), Department of Legislative Services

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Analysis by: Karen D. Morgan

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