

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1145
Judiciary

(Delegate McComas, *et al.*)

Judicial Proceedings

Injury to or Death of Pet – Damages

This bill provides that a person who tortiously causes an injury to or death of a pet is liable to the owner of the pet for compensatory damages not to exceed \$10,000. Compensatory damages means the reasonable and necessary cost of veterinary care and, in the case of the death of a pet, the fair market value of the pet before death. The bill applies whether the person is acting individually or through an animal under the person's direction or control.

The bill does not apply to any cause of action arising before the bill's October 1, 2004 effective date.

Fiscal Summary

State Effect: The bill should not have a significant impact on the Judiciary's operations or finances.

Local Effect: None – see above.

Small Business Effect: None.

Analysis

Current Law: The measure of damages for tortious injuries to or death of a pet is the market value of the pet before injury or death, or the reasonable cost of veterinary care, but not more than \$5,000. A victim may also be able to receive restitution for certain losses or expenditures, if the injury or death was caused by a criminal or delinquent act. Abuse of an animal is a misdemeanor, with maximum penalties of 90 days imprisonment and/or a \$1,000 fine. Aggravated cruelty to animals is a felony, with maximum penalties of three years imprisonment and/or a \$5,000 fine.

Background: At common law, a pet was considered property. Under this approach, which is followed in most states today, damages for the pet's injury or death are limited to the pet's replacement value. If the pet was a stray, otherwise obtained for free, or obtained from an animal shelter, this value is minimal.

Tennessee allows an award of noneconomic damages not exceeding \$4,000 to a person whose pet is fatally injured or killed due to the intentional or negligent actions of people or other animals under their direction or control. Idaho imposes civil penalties up to twice the value of a domestic animal that is intentionally killed or injured by a trespasser without the owner's consent. California, Illinois, New York, Oregon, and Utah authorize damages to disabled persons whose service animals are stolen, injured, or killed.

In addition, a small but growing number of jurisdictions have replaced the term "pet" with "companion animal." Companion animals are not considered property and, therefore, their companion humans can recover more than the animals' replacement value in case of their injury or death.

The Kentucky Court of Appeals, in *Burgess v. Taylor*, 84 S.W.3d 806 (2001), and the Hawaii Supreme Court, in *Campbell v. Animal Quarantine Station*, 632 P.2d 1066 (1981), have both held that noneconomic damages for the intentional destruction of pets are permissible under the laws of those states. The Wisconsin Supreme Court ruled otherwise, in *Rabideau v. City of Racine*, 627 N.W.2d 795 (2001). On the federal level, the 3rd Circuit Court of Appeals ruled in *Brown v. Muhlenberg Township*, 269 F.3d 205 *reh. en banc denied*, 273 F.3d 390 (2001), that noneconomic damages for the wrongful death of a pet are permissible under Pennsylvania law.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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