

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1390

(Delegate Haddaway)

Judiciary

Criminal Law - Aggravated Cruelty to Animals in the Presence of a Minor

This bill provides that a person who commits aggravated cruelty to animals in the immediate presence of a minor is guilty of the felony of aggravated cruelty to animals and is subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000. A person is in the immediate presence of a minor if the minor sees or directly perceives the violation in any manner.

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: None.

Analysis

Current Law: A person may not intentionally mutilate, torture, cruelly beat, or kill an animal or cause or procure such an act. Except in the case of self-defense, a person may not intentionally 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 animals and is subject to maximum penalties of a \$5,000 fine and/or three years imprisonment. As a condition of sentencing, the court may order a person convicted of these crimes to participate in and pay for psychological counseling.

Background: The American Bar Association (ABA) has commented on the hidden problem of child abuse and animal cruelty by stating that there are few cross-reporting mechanisms between animal protection and child protection authorities. Child care professionals often fail to ask about animal cruelty in the homes of abused children. Parental cruelty towards a child's pet is generally not recognized in state laws as an element of child abuse.

According to the ABA, California and Colorado are among the states that require animal control and humane society officers to report suspected child abuse. Illinois and Idaho are among the states that include cruelty to household pets in their definitions of child maltreatment. Baltimore police who file domestic violence reports are required to note the presence and condition of animal companions. The Boston Police Department works with the New England Animal Control/Humane Task Force to detect and respond to domestic violence associated with animal cruelty investigations.

In its 2003 report on high profile animal cruelty cases, (the most recent available) the Humane Society of the United States analyzed 1,373 animal cruelty cases and found that 784 involved intentional cruelty to animals. Of those cases, 15% involved family violence, including child abuse, elder abuse, and domestic violence. The society reports that the relatively low percentage of known animal cruelty cases that are linked to domestic violence indicates the hidden nature of the crime. Batterers threaten, abuse, and kill animals to demonstrate and confirm power and control over the family and to perpetuate terror. They may abuse animals to prevent a family member from leaving or to punish a family member for leaving. The victim may also be further degraded by being forced to participate in abuse of the animal. According to the society, in a recent sample of the largest domestic violence shelters in the United States, 91% of adult victims and 73% of children recount incidents of pet abuse. However, only 18% of the shelters surveyed routinely ask about pet welfare when the victims arrive for services.

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 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 subject to the more stringent penalties in this bill is expected to be minimal. The Department of Public Safety and Correctional Services advises that in fiscal 2004, 28 people were placed on probation and there were three intakes for the animal cruelty offense. In fiscal 2005, there were 14 people placed on probation and there was one intake for the same offense.

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 \$1,974 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 \$341 per month. Excluding medical care, the average variable costs total \$134 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 DOC. 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 2007 are estimated to range from \$17 to \$65 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.

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

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty. 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 \$33 to \$119 per inmate in fiscal 2007.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Humane Society of the United States, American Bar Association, People for the Ethical Treatment of Animals, Department of Legislative Services

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