

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE

House Bill 1213  
Judiciary

(Delegate McComas, *et al.*)

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**Crimes - Commercial Depiction of Dogfight or Cockfight - Prohibition**

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This bill provides that a person may not knowingly create, sell, distribute, display, or possess a depiction of a dogfight or cockfight for commercial gain. A “depiction” is a visual or auditory recording or transmission captured with photographic, film, video, electronic, computer, or sound equipment. A person who violates this provision is guilty of a felony and is subject to maximum penalties of three years imprisonment and/or a fine of \$5,000. As a condition of sentencing, the court may order a defendant convicted of this offense to undergo and pay for psychological counseling.

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**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.

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**Analysis**

**Current Law:** A person may not possess, own, sell, transport, or train a dog with the intent to use the dog in a dogfight or knowingly allow premises under his or her control to be used for dogfighting. A person who violates this provision is guilty of a felony and is subject to maximum penalties of three years imprisonment and/or a fine of \$5,000.

A person is prohibited from knowingly attending a deliberately conducted dogfight as a spectator. A violator is guilty of a misdemeanor and may receive maximum penalties of 90 days imprisonment and/or a fine of \$1,000. A person may not use or allow a dog to be used in a dogfight or arrange or conduct a dogfight. A person who violates this provision is guilty of a felony and is subject to maximum penalties of three years imprisonment and/or a fine of \$5,000.

A person may not use or allow the use of a fowl, cock, or other bird to fight with another animal. A violator is guilty of a felony and subject to maximum penalties of three years imprisonment and/or a fine of \$5,000.

A person may not possess, with an intent to unlawfully use, an implement of cockfighting or any tool designed to enhance a bird's fighting ability for use in a deliberate bird fighting event. These implements include gaffs, slashers, postizas, sparring muffs, or any other sharp tool intended to replace the natural spur of a gamecock or other fighting bird. A person may not arrange or conduct an event where a fowl, cock, or other bird fights with another fowl, cock, or other bird. A person may not possess, own, sell, transport, or train a bird with the intent to use the fowl, cock, or other bird in a cockfight, or knowingly allow premises under the person's control to be used for a fowl, cock, or other bird to fight with another fowl, cock, or other bird. A person who violates these provisions is guilty of a felony and is subject to maximum penalties of three years imprisonment and/or a fine of \$5,000. A person may not knowingly attend, as a spectator, a deliberately conducted event with fowl, cock, or other bird fighting. A person who violates the provision is guilty of a misdemeanor and is subject to maximum penalties of 90 days imprisonment and/or a fine of \$1,000.

A court may order a defendant convicted of one of these aforementioned animal cruelty offenses to undergo and pay for psychological counseling.

**Background:** According to the Humane Society of the United States, organized animal fighters use homemade videos to encourage people who might want to engage in this activity. A group called the International Catchdog Association has distributed digital videos of their dogfighting tournaments. Dog and gamecock breeders want to show the potential of their animals as fighters, so videos have become an important marketing tool. The Humane Society also reports that videos have become a way to encourage betting activity on animal fights as many who would bet are reluctant to be present at the fight itself, since being a spectator at a dogfight or cockfight is a crime in many states, including Maryland. Dog fighters have filmed fights so that gamblers will know the outcome of the fight.

In 1999, a federal law was enacted that prohibits the knowing creation, sale, or possession of a depiction of animal cruelty with the intention of placing that depiction in

foreign or interstate commerce for commercial gain. A violator is subject to a fine and/or up to five years imprisonment. "Depiction of animal cruelty" means any auditory or visual depiction in which a living animal is intentionally maimed, mutilated, tortured, wounded, or killed. The prohibition does not apply to depictions with serious religious, political, scientific, educational, journalistic, historical, or artistic value. In 2005, a Virginia man who sold pit bull fight videos to investigators was the first person to be prosecuted under the federal law. He faced 15 years in prison and \$750,000 in fines.

According to the Humane Society, dogfighting is illegal in all 50 states and the District of Columbia. In 47 states (including Maryland) and the District of Columbia it is a felony offense. Possession of dogs for the purpose of fighting is a felony in 42 states (including Maryland) and the District of Columbia. In three states, (Georgia, Hawaii, and Nevada) possession of dogs for the purpose of fighting is legal. In 20 states, being a spectator at a dogfight is a felony. Being a spectator at a dogfight is a misdemeanor in the District of Columbia and 28 states, including Maryland. In Georgia and Hawaii, being a spectator at a dogfight is legal.

Cockfighting is illegal in 48 states and the District of Columbia, according to the Humane Society. The two states where the act of cockfighting is still legal are Louisiana and New Mexico. In the District of Columbia and 32 states (including Maryland), cockfighting is a felony offense. In 16 other states, cockfighting is a misdemeanor. In 12 states, being a spectator at a cockfight is a felony. In 29 states (including Maryland) and the District of Columbia, being a spectator at a cockfight is a misdemeanor. In nine states (Alabama, Arkansas, Georgia, Hawaii, Louisiana, Mississippi, Montana, New Mexico and Texas) being a spectator at a cockfight is legal.

**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 penalties due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of these proposed crimes 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 \$1,974 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.

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### 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, Cornell Law School, MSNBC News, Department of Legislative Services

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