

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 673
Judiciary

(Delegate McComas, *et al.*)

Crimes - Leaving Dogs Outside and Unattended by Use of Restraints - Penalties

This bill prohibits a person from leaving a dog outside and unattended by use of a “restraint” under specified circumstances.

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 incarceration provision.

Small Business Effect: None.

Analysis

Bill Summary: A “restraint” is defined as a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system. A “collar” is a device made of nylon, leather, or similar material that is specifically designed to be used around a dog’s neck.

The prohibition applies to the use of a restraint:

- between the hours of 12 midnight and 6 a.m., unless the person has an express temporary waiver from the local animal control authority;

- during a heat advisory, hurricane or tropical storm warning, or when the real or effective temperature falls below 32 degrees Fahrenheit;
- that unreasonably limits the dog's movement;
- that uses a collar that: (1) is a pinch, prong or choke type; (2) is made primarily of metal; (3) is not at least as large as the circumference of the dog's neck plus one inch or does not allow for the insertion of two fingers between the collar and the dog's neck;
- that is less than five times the length of the dog, as measured from the dog's nose tip to the base of the dog's tail, or that is less than 10 feet long;
- that limits the dog's access to suitable and sufficient food, clean water, or appropriate shelter;
- that keeps the dog in unsafe or unsanitary conditions; or
- that causes injury to the dog.

A violator is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for 90 days and/or a fine of \$1,000.

Current Law: If a person has charge or custody of an animal as an owner or otherwise, the person is prohibited from unnecessarily failing to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather. A person who violates this provision is guilty of a misdemeanor and is subject to maximum penalties of 90 days imprisonment and/or a \$1,000 fine. As a condition of sentencing, the court may order a defendant convicted of this offense to undergo and pay for psychological counseling.

If an animal is impounded, yarded, or confined without necessary food, water, or proper attention, or is subject to cruelty or neglect, a law enforcement officer, other public official, a humane society agent, or any invited and accompanying veterinarian may: (1) enter the place where the animal is located and supply the animal with sustenance and attention; or (2) remove the animal if necessary for the animal's health. A person who enters a place under these circumstances is not liable due to the entry. A person who removes an animal must notify the animal's owner or custodian of the removal and any administrative remedies that may be available. If no administrative remedy is available, then within 10 days of the removal, the owner or custodian may file a petition for return of the animal in the District Court of the county where the removal occurred.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provision 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 2008 are estimated to range from \$21 to \$65 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 \$2,300 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 \$465 per month.

Local Expenditures: Montgomery and Prince George's counties report that this bill would not have a fiscal impact on their operations. The Town of College Park advises that the bill would have limited, if any, fiscal impact on its operations. The Town of Berlin reports that similar regulations are already enforced within its borders. Allegany County reports that the bill could have a fiscal impact, as enforcement could require the county to pay overtime to animal control officers. Talbot County reports that in fiscal 2008, the bill could require the payment of \$1,560 in overtime pay to an animal control officer to enforce the prohibition against restraints between the hours of midnight and 6 a.m.; otherwise, the bill would not have a significant fiscal impact. This estimate is based on one call per week. In future years, Talbot County expects fewer calls as residents became accustomed to the bill's requirements. Talbot County estimates a fiscal impact of \$1,000 in fiscal 2009, which then decreases by \$200 every year to \$400 by fiscal 2012.

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 \$42 to \$120 per inmate in fiscal 2008.

Additional Information

Prior Introductions: This bill is similar to SB 921 of 2006, which passed the Senate, as amended, and was heard by the House Judiciary Committee, but received no further action.

Cross File: None.

Information Source(s): Town of Berlin, City of Rockville, City of Frostburg, City of College Park, Town of Bladensburg, Wicomico County, Allegany County, Montgomery County, Prince George's County, Talbot County, Baltimore City, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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