

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE

House Bill 1290

(Delegate Frush)

Judiciary

---

Courts - Civil Penalties - Failure to Sterilize Rescued Dog or Cat

---

This bill requires a “releasing agency” that sells or places cats or dogs to have the animals sterilized prior to adoption or enter into a written agreement that requires the adopting party to have the animal sterilized within a specified time limit. The bill sets forth additional procedures to be followed if an adopting party does not comply, including the right to seek a civil penalty. The bill establishes the exclusive original jurisdiction of the District Court for any civil action filed.

---

Fiscal Summary

**State Effect:** None. Any potential increase in the workload for the Judiciary could be handled with existing budgeted resources.

**Local Effect:** Potential minimal increase in revenues for local governments that operate a releasing agency due to the bill’s provisions allowing for civil penalties and the forfeiture of guarantee deposits. The bill requires such revenues to be used for specific purposes.

**Small Business Effect:** Minimal.

---

Analysis

**Bill Summary:** A releasing agency is defined as: (1) a public or private pound; (2) an animal rescue organization; (3) an animal shelter; (4) a humane society; or (5) a pet shop. Prior to placing a dog or cat with an adopting party, a releasing agency must have the dog or cat sterilized by a veterinarian or enter into a written agreement that requires the

adopting party to have the animal sterilized within 30 days and pay a guarantee deposit. Animals under the age of four months at the time of the adoption must be sterilized within 30 business days of reaching four months old. An extension may be granted if a veterinarian certifies that the animal is too sick or injured to be sterilized.

The bill specifies the information that must be included in the written agreement between the releasing agency and the adopting party, including a notice stating that: (1) a guarantee deposit is refundable on certification from a veterinarian that the cat or dog has been sterilized; (2) the sterilization must be completed by a specified date; (3) the releasing agency has the right to retain the guarantee deposit as liquidated damages if the adopting party does not present a certificate as required; and (4) the releasing agency can reclaim the animal and seek a civil fine of \$500, court costs, and reasonable attorney's fees from the adopting party if the party continues to violate the agreement.

The bill specifies that a guarantee deposit must be at least \$75 and kept in a separate escrow account. The releasing agency must refund the deposit upon receiving a certificate that the animal was sterilized or a letter that the animal died or was lost or stolen.

If no letter or certificate is provided within 30 days of the specified sterilization date, the releasing agency must mail or hand deliver an initial demand letter containing specified information, including the date by which the adopting party must provide a proper certificate in order to avoid civil action. If a certificate is not provided in accordance with the demand letter, the releasing agency may retain the guarantee deposit as liquidated damages. All money retained must be used to finance (1) public education programs to prevent the overpopulation of animals; (2) the sterilization of dogs and cats available for placement; (3) follow up programs to ensure that placed dogs and cats are sterilized; and (4) the costs incurred in pursuing remedies provided under this bill.

If a party is still not in compliance, a second demand letter must be mailed giving notice that unless a certificate is presented before a specified date, the adopting party will be immediately subject to a civil suit in which a civil penalty, court costs, and reasonable attorney's fees may be sought. A party who fully complies with an initial or second demand letter on or before the specified dates may not incur any further civil liability to the releasing agency for damages arising out of the failure to sterilize the animal.

The District Court has exclusive original jurisdiction over any civil action. Civil penalties collected must be used for the same purposes referenced above that were applicable to guarantee deposits. If a releasing party prevails, an award of court costs and reasonable attorney's fees are to be awarded and assessed without regard to the adopting party's ability to pay.

A local jurisdiction is permitted to enact laws or ordinances that are more stringent than the requirements set forth by this bill.

**Current Law:** No State law requires the sterilization of adopted cats and dogs.

**Background:** The Humane Society estimates that six to eight million cats and dogs enter shelters each year, with half the animals being adopted and the other half euthanized. Information as to the number of entities within the State that meet the definition of a releasing agency is not readily available.

**Local Fiscal Effect:** Potential minimal increase in revenues for local governments that operate a releasing agency due to the bill's provisions allowing for civil penalties and the forfeiture of guarantee deposits. The bill requires such revenues to be used for specific purposes. Other jurisdictions, such as Montgomery County, report there would be no fiscal impact as adoptions from the county animal shelter are handled by the local Humane Society.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Allegany County, Montgomery County, Talbot County, Judiciary (Administrative Office of the Courts), Baltimore City, Department of Legislative Services

**Fiscal Note History:** First Reader - March 18, 2008  
mam/jr

---

Analysis by: Jennifer K. Botts

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