

Department of Legislative Services  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

House Bill 495  
Judiciary

(Delegate Smigiel, *et al.*)

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**Criminal Law - Crimes Relating to Animals - Limitations on Possession of Breeding Dogs**

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This bill prohibits a person from owning, possessing, controlling, or otherwise having charge or custody of more than 50 “breeding dogs” over the age of four months at any time. A person who owns, possesses, controls, or otherwise has charge or custody of more than 10 breeding dogs over the age of four months must provide each dog with an enclosure of a specified size and, unless the dog is certified by a doctor of veterinary medicine to be medically precluded from exercise, a minimum of two exercise periods each day for a total of at least two hours of exercise, in a certain manner, each day.

A violator is guilty of a misdemeanor and subject to a maximum fine of \$1,000.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund revenues due to the bill’s penalty provision. No effect on expenditures.

**Local Effect:** It is assumed that the requirements of the bill can be handled with existing budgeted resources in most jurisdictions. To the extent a more rigorous enforcement program is determined to be needed in any jurisdiction additional resources, including overtime, may be needed.

**Small Business Effect:** Minimal.

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## Analysis

**Bill Summary:** The bill's provisions do not apply to: (1) a publicly operated animal control facility or animal shelter; (2) a private, charitable, nonprofit humane society or animal adoption organization; (3) a veterinary facility; (4) a retail pet store; (5) a research institution; or (6) a boarding facility.

**Current Law:** The Secretary of Health and Mental Hygiene may prohibit the importation, selling, trading, purchasing, bartering, breeding, raising, keeping, or possession of any animals found to be dangerous to human health and safety. This authority does not apply to domestic cats, dogs, or ferrets; animals used for agricultural, scientific, or educational purposes; animals used for public exhibitions; or any animal that the Secretary determines is not a threat to human health and safety. These provisions may not be construed to prohibit the breeding, raising, keeping, or possession of turtles by a person who has obtained a permit. (*See* Health-General Article § 18-219.)

To determine if dogs are being treated inhumanely in violation of any law, an authorized director of a humane society, accompanied by a sheriff or a deputy sheriff, may inspect a premises:

- where a person is engaged in the business of buying, selling, trading, or breeding dogs; or
- of a kennel where 25 or more dogs are kept.

A person who makes such an inspection must give prior written notice of the time and date of the inspection to the owner or occupant of the premises.

In Baltimore City, the Baltimore City Health Department is required to enforce these inspection provisions. Enforcement in Baltimore County is handled by the Baltimore County Department of Health, Division of Animal Control or an organization approved by the Baltimore County government.

These premises inspection provisions do not apply to premises:

- where dogs are kept or bred solely for medical or related research or laboratory tests;
- operated by a licensed and regularly practicing veterinarian; or where hunting dogs are housed, if the buying, selling, trading, or breeding is incidental to the main purposes of housing, keeping, and using dogs. (*See* Criminal Law Article § 10-616.)

**Local Fiscal Effect:** Because dog kennels and businesses may be inspected for humane treatment under State law and local ordinances, it is assumed that the requirements of this bill can be handled with the existing budgeted resources of local jurisdictions.

The number of facilities statewide with more than 50 breeding dogs older than four months is unknown. The number of facilities covered under the bill with more than 10 dogs older than four months is also unknown. Washington County believes that it has one kennel with approximately 50 dogs that may expand to a 75 dog capacity. Worcester County advises that there are two persons in the county licensed as a dog kennel with more than 50 dogs. By local ordinance, each of these counties requires licensing for kennels with more than six dogs. Based on a limited survey of local jurisdictions, the Department of Legislative Services advises that the bill's requirements can be handled with the existing budgeted requirements of most local jurisdictions.

Montgomery County advises that there are two facilities in the county with more than 50 breeding dogs. The county also advises that enforcement of the bill's exercise requirement would necessitate additional expenditures for overtime pay (at \$44.86 per hour) for two Animal Services Division officers to do surveillance at each of 18 facilities in the county for a 24-hour period, twice yearly, at an annual cost of about \$38,800. To the extent a more rigorous enforcement program is determined to be needed in any jurisdiction, some additional resources, including overtime, may be needed.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 318 (Senator Gladden, *et al.*) - Judicial Proceedings.

**Information Source(s):** Judiciary (Maryland District Court); Office of the Attorney General; Baltimore City; Kent, Montgomery, Washington and Worcester counties, Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2009  
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Analysis by: Guy G. Cherry

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