

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1299
Judiciary

(Delegate Shank)

Criminal Law - Mistreated Animals - Seizure Requirements and Procedures

This bill authorizes a person who removes an animal from its original location due to neglect or abuse to file a petition in the District Court to have the animal declared abandoned and decide the disposition of the animal, if the owner or custodian of the animal fails to regain possession of the animal within 10 days after the animal's removal.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing State resources.

Local Effect: The bill's requirements can be handled with existing local resources.

Small Business Effect: None.

Analysis

Bill Summary: If there is probable cause to believe that an animal removed from its original location because of suspected inadequate care, neglect, or cruelty is impounded, yarded, or confined without necessary amenities or attention, or is subject to cruelty or neglect, a law enforcement officer or an officer or authorized agent of a humane society may: (1) seize the animal and remove the animal to an appropriate holding facility; or (2) impound the animal at its current location to be cared for by the impounding agency. The bill specifies the notice that must be provided to the owner of the property where the animal is impounded, posted on the property, and served on the owner or custodian of the animal. The notice served on the owner or custodian of the animal must include specific information, including: (1) a statement that the owner or custodian may request a hearing concerning the seizure or impoundment and that failure to request a hearing within

10 days of the date of the notice will result in the animal being classified as abandoned and the court deciding on the animal's disposition; and (2) a statement that if the court determines the seizure or impoundment of the animal was justified, the owner or custodian is liable for the costs of caring for the animal.

The owner or custodian may request a hearing within 10 days of the seizure or impoundment, and the hearing must be held as soon as practicable to determine the validity of the seizure or impoundment and the disposition of the animal. An animal may be returned to the owner or custodian only if the court finds that the animal has not been confined with inadequate care or subject to abuse or neglect and will not be subject to such conditions upon its return. An owner or custodian is liable for the costs incurred in caring for the animal if the court finds that the seizure or impoundment was justified.

The bill authorizes an owner or custodian of a seized or impounded animal to surrender ownership at any time to the seizing or impounding agency. However, surrendering ownership of the animal does not preclude and is not a defense to criminal prosecution for animal-related offenses. A court must order a person charged with an animal-related offense to post bond to cover the care and custody of the animal until the completion of the trial. If an owner fails to post bond within 30 days of the court's order, the animal is considered abandoned and ownership of the animal reverts to the seizing or impounding agency. An owner convicted of an animal-related offense is liable for costs for caring and keeping of the animal.

The bill also reduces from 20 to 10 days the time after which an animal whose owner/custodian is unknown and cannot be ascertained is considered a stray.

Current Law: If an owner or custodian of an animal is convicted of an act of animal cruelty, the court may order the removal of the animal or any other animal at the time of conviction for protection of the animal. An officer or authorized agent of a humane society, a police officer or other public official required to protect animals may seize an animal if necessary to protect the animal from cruelty. In the case of an animal impounded, yarded, or confined without necessary food, water, or proper attention, these individuals, along with any accompanying veterinarian licensed in the State may enter the place where the animal is located and supply the animal with the necessary amenities or attention and remove the animal if necessary for the animal's health. A person who enters the premises where the animal is located is not liable because of the entry. However, the removal provisions do not authorize entry into a private dwelling or removal of a farm animal without the prior recommendation of a veterinarian licensed in the State.

The person who removed the animal must notify the animal's owner or custodian of the removal and any available administrative remedies. If administrative remedies are not

available, the owner or custodian may file a petition for the return of the animal in the District Court of the county in which the removal occurred. The owner or custodian has 10 days after the removal of the animal to file the petition.

An animal is considered a stray if the owner was notified of the animal's removal and did not file a petition in the District Court within the 10-day period or if the owner or custodian of the animal is not known and cannot be ascertained by reasonable effort within 20 days of the removal.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles County, Frederick County, Montgomery County, Somerset County, Maryland Department of Agriculture, Department of Natural Resources, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Legislative Services

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