

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 21

(Senator Robey, *et al.*)

Judicial Proceedings

Judiciary

Criminal Law - Animal Cruelty - Penalties and Conditions of Sentencing

This bill increases the maximum penalty for abuse or neglect of an animal from 90 days imprisonment and/or a \$1,000 fine to one year imprisonment and/or a \$2,500 fine. The bill authorizes a court, as a condition of sentencing, to prohibit a defendant convicted of abuse or neglect of an animal from owning, possessing, or residing with an animal for a specified period of time. A court may impose the same condition on a defendant convicted of general aggravated cruelty to animals for a specified period of time or for the life of the defendant. A violation of a condition of sentencing imposed under these provisions subjects the violator to removal of the animal at the violator's expense and the violation may be treated as criminal contempt.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's penalty provision.

Local Effect: Minimal increase in local government revenues and expenditures due to the bill's penalty provision.

Small Business Effect: None.

Analysis

Current Law: A person is prohibited from abusing or neglecting an animal, which consists of overdriving or overloading an animal; depriving an animal of necessary sustenance; inflicting unnecessary suffering or pain on an animal; or causing, procuring, or authorizing such an act. If a person has custody or charge of an animal, as an owner or

otherwise, the person is prohibited from unnecessarily failing to provide sufficient nutrition, necessary veterinary care, proper drink, air, space, shelter, or protection from the elements. These provisions do not apply to lawful hunting or lawful trapping.

A person who violates these provisions 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 to participate in and pay for psychological counseling.

Under the general aggravated cruelty to an animal statute, a person is prohibited from intentionally mutilating; torturing; cruelly beating or cruelly killing an animal; or causing, procuring, or authorizing such an act. The statute also prohibits a person from intentionally inflicting bodily harm, permanent disability, or death on a law enforcement unit service animal, unless the person is acting in self-defense.

A person who violates these provisions is guilty of a felony, and is subject to maximum penalties of three years imprisonment and/or a \$5,000 fine. As a condition of sentencing, the court may order a defendant to participate in and pay for psychological counseling.

Background: According to the Humane Society of the United States, 22 states, the District of Columbia, and the U.S. Virgin Islands have statutes regarding future ownership of animals by individuals convicted of animal cruelty. The statutes range from outright bans on future ownership to authorization for a court to ban future ownership for a certain amount of time.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to people being committed for longer periods of time to Division of Correction facilities for convictions in Baltimore City. 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 Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts. In general, the District Court handles all misdemeanor cases. However, the District Court has concurrent jurisdiction with the circuit courts in cases in which the penalty is confinement for three years or more or a fine of \$2,500 or more. A defendant is typically entitled to a jury trial if the defendant is charged with an offense that permits confinement for more than 90 days. Therefore, the

bill's changes to penalties for abuse or neglect of an animal may result in an increase in circuit court cases.

Local Expenditures: Expenditures increase as a result of the bill's incarceration penalty and any increase in circuit court cases. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities are expected to range from \$57 to \$157 per inmate in fiscal 2011.

Additional Information

Prior Introductions: None.

Cross File: HB 265 (Delegate Waldstreicher, *et al.*) - Judiciary.

Information Source(s): Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, The Humane Society of the United States, Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2010
mlm/kdm Revised - Senate Third Reader - March 26, 2010

Analysis by: Amy A. Devadas

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