

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

House Bill 1020 (Delegate Frush, *et al.*)
 Judiciary

Maryland Animal Abuse Registry

This bill requires the Department of State Police (DSP) to establish and maintain a central and computerized Maryland Animal Abuse Registry of persons convicted of animal abuse or neglect; attending dogfights or cockfights; specified aggravated animal cruelty offenses; dog poisoning; leaving dogs outside unattended by use of restraints; an attempt to commit such an offense; or a crime committed in a federal, state, or foreign jurisdiction that would constitute one of the bill’s covered crimes in Maryland. Each registrant must pay an annual registration fee of \$50 for five years.

The bill also establishes an Animal Abuse Registry Fund which must be administered by DSP as a State special fund. The fund may be used only for funding the administration of the registry laws by county sheriffs and DSP.

Fiscal Summary

State Effect: State general fund expenditures for DSP increase by \$196,900 in FY 2013, which includes \$150,000 in costs to design and set up the electronic registry. Special fund revenues increase by \$14,400 in FY 2013, and special fund expenditures increase by the same amount. Future years reflect annualization and registry growth.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Revenue	\$14,400	\$33,600	\$52,800	\$72,000	\$91,200
GF Expenditure	\$196,900	\$62,400	\$60,300	\$87,100	\$54,100
SF Expenditure	\$14,400	\$33,600	\$52,800	\$72,000	\$91,200
Net Effect	(\$196,900)	(\$62,400)	(\$60,300)	(\$87,100)	(\$54,100)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal. While the bill increases the workload of local law enforcement units, any potential costs may be offset through annual special fund allotments for the administration of laws pertaining to the registry.

Small Business Effect: Minimal.

Analysis

Bill Summary: The animal abuse registry is required to be updated based on information made available to DSP, to include the offender's name, the offender's residential address, the date and description of the crime for which registration is required, and a photograph of the offender. Information contained in the registry must be made available to the public through the Internet, by telephone, by written access, and in person.

A person convicted of an animal abuse crime is required to register with the county sheriff for the county in which the person is located within 10 days after the conviction. The registrant is required to update registry information annually and to reflect any change in address within 10 days of the change. The registration requirement for each person remains in effect for five years, unless extended an additional five years for subsequent convictions that occur after initial registration.

The county sheriff is required to obtain a photograph of the registrant and forward all registration information to DSP. In addition to any fine, fee, or penalty levied or imposed, each registrant must pay an annual registration fee of \$50. The sheriff must remit the annual registration fees collected to the State Treasurer for deposit into the fund.

A person convicted of an animal abuse crime may appeal to the District Court for a determination of the level of danger posed by the offender for the purpose of exclusion from the registry. If the court finds that the circumstances of the offense do not indicate a risk of reoffending by the offender or that the offender is a danger to the public, the court must specify in writing the reasons for its finding and notify the offender and order DSP to remove the offender's registration information from the registry.

The bill prohibits a person subject to registration from knowingly failing to register with the county sheriff or providing accurate information. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000. A second or subsequent offense is a felony subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000.

The bill also prohibits an animal shelter, pet store, or an animal breeder from knowingly offering, selling, delivering, giving, or providing an animal to a person on the registry. A violator is guilty of a misdemeanor and subject to a maximum fine of \$1,000. A second or subsequent offense is punishable by a maximum fine of \$10,000.

Current Law: A person may not (1) overdrive or overload an animal; (2) deprive an animal of necessary sustenance; (3) inflict unnecessary suffering or pain on an animal; (4) cause, procure, or authorize such a prohibited act; or (5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 90 days and/or a fine of \$1,000. As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.

A person may not intentionally mutilate, torture, cruelly beat, or cruelly kill an animal or cause or procure such an act. Except in the case of self-defense, a person may not intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit. A person who violates these provisions is guilty of the felony of aggravated cruelty to animals and is subject to maximum penalties of three years imprisonment and/or a \$5,000 fine. As a condition of probation, a court may prohibit a defendant from owning, possessing, or residing with an animal.

A person may not (1) use or allow a dog to be used in a dogfight; (2) arrange or conduct a dogfight; (3) possess, own, sell, transport, or train a dog with the intent to use the dog in a dogfight; or (4) knowingly allow premises under his or her control to be used for dogfighting. A person who violates these provisions is guilty of a felony and is subject to up to three years imprisonment or a maximum fine of \$5,000, or both.

A person may not (1) use or allow the use of a fowl, cock, or other bird to fight with another animal; (2) possess, with an intent to unlawfully use, an implement of cockfighting or any tool designed to enhance a bird's fighting ability for use in a deliberate bird fighting event; (3) arrange or conduct an event where a fowl, cock, or other bird fights with another fowl, cock, or other bird; (4) possess, own, sell, transport, or train a bird with the intent to use the fowl, cock, or other bird in a cockfight; or (5) knowingly allow premises under the person's control to be used for a fowl, cock, or other bird to fight with another fowl, cock, or other bird. A person who violates these provisions is guilty of a felony and may receive up to three years imprisonment, a maximum fine of \$5,000, or both.

The court may order a person convicted of any of these crimes to undergo and pay for psychological counseling.

A person may not willfully and maliciously give poison or ground glass to a dog, or expose poison or ground glass, with the intent that a dog ingest it. A violator is guilty of a misdemeanor and subject to a maximum \$100 fine for each violation.

A person may not leave a dog outside and unattended by use of a restraint (1) that unreasonably limits the movement of the dog; (2) that uses a collar that is made primarily of metal or is not at least as large as the circumference of the dog's neck plus 1 inch; (3) that restricts the access of the dog to suitable and sufficient clean water or appropriate shelter; (4) in unsafe or unsanitary conditions; or (5) that causes injury to the dog. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 90 days and/or a fine of \$1,000.

Background: The registry created under the bill is modeled after the current sex offender registry operated and maintained by the Department of Public Safety and Correctional Services.

According to the Humane Society of the United States, at least 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: Approximately 384 individuals are charged with related animal abuse offenses annually and would be required to pay a \$50 annual registration fee for a five-year period. Accounting for the bill's October 1, 2012 effective date, special fund revenues to the Animal Abuse Registry Fund will total \$14,400 in fiscal 2013. Future year revenues will total \$33,600 in fiscal 2014 and \$91,200 in fiscal 2017, at which time revenues will level-out reflecting the expiration of the five-year limitation on registrations in earlier years.

State Expenditures: Establishing an animal abuse registry within DSP will cost approximately \$201,900 in fiscal 2013, which includes \$150,000 in computer programming expenses. Future year expenditures total \$74,100 in fiscal 2014 and \$86,100 in fiscal 2017. This estimate reflects the cost of hiring one administrative officer and includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salaries and Fringe Benefits	\$47,051
Computer Programming	150,000
Other Operating Expenses	<u>4,898</u>
FY 2013 DSP Expenditures	\$201,949

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, with approximately \$40,600 in system replacement and storage in fiscal 2016.

Computer Programming Expenses

DSP do not currently operate a similar registry or a similar special fund. DSP advises that, in connection with creating the animal abuse registry program, the Department of Public Safety and Correctional Services (which operates and maintains the State's sex offender registry) will share existing registry software with DSP without imposing an associated licensing fee. It is estimated that approximately \$150,000 will be needed for DSP to modify the existing sex offender software program in order for it to be used for the new Animal Abuse Registry program.

Administrative Office of the Courts

The Administrative Office of the Courts (AOC) reports that the bill may increase caseloads due to the new charges connected with registry related violations and, as a result, a corresponding increase in commissioner initial appearance hearings, bail reviews, and preliminary hearings held in the District Court, which could lead to an increase in the number of felony charges to be adjudicated in the circuit courts. Any such increases in caseloads can be handled with the existing budgeted resources of the courts.

Special Fund Expenditures

Up to 65% of special fund revenues must be provided to county governments to fund the collection of registration information by county sheriffs; and up to 35% of special fund revenues must be provided to DSP to cover the establishment and administration of the animal abuse registry. Accordingly, local governments will receive \$9,360 in grants in fiscal 2013 and \$59,280 in fiscal 2017. DSP will be able to retain \$5,040 in fiscal 2013 to partially cover the cost to establish and administer the animal abuse registry. The amount of special fund revenues retained by DSP will increase to \$31,920 in fiscal 2017, which will cover approximately 37% of the cost to administer the registry. The following table shows the net effect on general fund expenditures.

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
Registry Costs	\$201,949	\$74,135	\$78,791	\$112,346	\$86,068
Special Funds	5,040	11,760	18,480	25,200	31,920
Required General Funds	\$196,909	\$62,375	\$60,311	\$87,146	\$54,148

Local Revenues: Local governments will receive 65% of the revenues deposited in the special Animal Abuse Registry Fund in the form of grants to offset the collection of registration information by county sheriffs. The amount of grant funding is projected to total \$9,360 in fiscal 2013 and \$59,280 by fiscal 2017.

Local Expenditures: While the workload of local law enforcement units may increase, any potential costs may be offset by the distribution of grants from the special Animal Abuse Registry Fund.

A brief survey of local jurisdictions by Legislative Services yielded the following additional information:

Worcester County reports that the bill's requirements can be handled with existing budgeted resources. An estimated 40 manhours annually would be expended to conduct registrations under the bill, based on information from the Animal Control Division of the Worcester County Sheriff's Office. Digital cameras are already assigned to animal control for investigations.

Washington County reports that the offsetting reimbursements from the special fund would be similar in practice to reimbursements received for sex offender registrations. Costs associated with obtaining charges on registrants who fail to register or change addresses without notification would also occur.

Montgomery County reports minimal fiscal or operational impact under the bill. The county rarely charges persons using the bill's covered prohibitions. The county also estimates minimal impact to those businesses that may have to check registry prior to sale or adoption of animals.

In Kent County the number of animal cruelty cases is reported by the county to be relatively low. The anticipated fiscal and operational impact of the bill on the Kent County Sheriff's Office should also be low. Kent County indicates that the registration of these offenders would cost approximately \$50 to \$75 per year per registrant.

Additional Information

Prior Introductions: None.

Cross File: SB 301 (Senator Young, *et al.*) - Judicial Proceedings.

Information Source(s): Kent, Montgomery, Washington, and Worcester counties; Baltimore City; Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of State Police; Office of the Public Defender; Department of Public Safety and Correctional Services; State's Attorneys' Association; Department of Legislative Services

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