

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 1096

(Senator Simonaire, *et al.*)

Judicial Proceedings

Criminal Law - Aggravated Animal Cruelty - Bait Dogs

This emergency bill prohibits a person from using or allowing a dog to be used as a “bait dog.” Violators are guilty of the felony of aggravated cruelty to animals and are subject to imprisonment for up to three years and/or a \$5,000 maximum fine. In addition, a dog that is used in a dogfight or as a bait dog must be removed immediately from the possession of the owner by an officer or authorized agent of a humane society or a police officer or other public official required to protect animals. The animal may not be returned to the person from whom it was removed unless (1) the person is acquitted of any charges relating to the incident for which the dog was removed; (2) the charges against the person are dismissed; or (3) a *nolle prosequi* is entered.

A “bait dog” is a dog that is used to train a fighting dog or used to test the fighting or killing instinct of another dog.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill’s expanded application of a current incarceration penalty. Revenues are not affected.

Local Effect: Potential minimal increase in local revenues from fines imposed in circuit court cases. Potential minimal increase in local expenditures for the incarceration of defendants convicted as a result of the bill; minimal increase in expenditures for caring, treating, and housing animals removed from owners as a result of the bill.

Small Business Effect: Minimal impact on small businesses that treat, care, and house animals removed from owners as a result of the bill.

Analysis

Current Law: 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 the felony of aggravated cruelty to animals and is subject to maximum penalties of three years imprisonment and/or a fine of \$5,000.

If an owner or custodian of an animal is convicted of an act of animal cruelty, a court may order the removal of the animal or any other animal at the time of conviction for the protection of the animal. An officer or authorized agent of a humane society, or a police officer or other public official required to protect animals may seize an animal if necessary to protect the animal from cruelty.

If an animal is impounded, yarded, or confined without necessary food, water, or proper attention, is subject to cruelty, or is neglected, an officer or authorized agent of a humane society, a police officer, another public official required to protect animals, or any invited and accompanying veterinarian licensed in the State, may (1) enter the place where the animal is located and supply the animal with necessary food, water, and attention; or (2) remove the animal if removal is necessary for the health of the animal. A person who enters a place to assist an animal under these circumstances is not liable for the entry. However, a person may not enter a private dwelling for these purposes.

A person who removes an animal under these circumstances must notify the animal's owner or custodian of the removal of the animal and any administrative remedies that may be available to the owner or custodian. If an administrative remedy is 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 within 10 days after the removal.

Background: In February 2012, a pit bull named Rocky Road was severely injured after being used as a bait dog in a dogfighting operation in Anne Arundel County. The dog underwent surgery and will be placed with an animal rescue nonprofit organization that will put him up for adoption when he is ready. Authorities are looking for the dog's owner.

State Expenditures: General fund expenditures may increase minimally as a result of the bill's expanded application of a current incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,900 per month. Excluding overhead, the average cost of housing a new DOC inmate (including variable medical care and variable operating costs) is about \$385 per month. Excluding all medical care, the average variable costs total \$170 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the Division of Correction but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in DOC facilities. 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 provision from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the Division of Correction but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: None.

Cross File: HB 1469 (Delegate McConkey) - Judiciary.

Information Source(s): Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), *Baltimore Sun*, WBALtv.com, Department of Legislative Services

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