

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

House Bill 373
 Judiciary

(Delegates McConkey and Valderrama)

Criminal Procedure - Animal Abuser Registration

This bill requires the Department of Public Safety and Correctional Services (DPSCS) to establish and maintain a central and computerized Maryland Animal Abuse Registry of persons convicted of specified animal abuse or neglect offenses. The bill’s provisions are severable.

Fiscal Summary

State Effect: General fund expenditures for DPSCS increase by \$310,700 in FY 2015 to design and set up the electronic registry. Future years reflect annualization and inflation. It is assumed that the bill’s penalty provisions do not materially affect State finances or operations.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	310,700	69,800	73,100	76,600	80,200
Net Effect	(\$310,700)	(\$69,800)	(\$73,100)	(\$76,600)	(\$80,200)

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

Local Effect: The bill increases the workload of local law enforcement units. Any increase in costs depends on the number of cases that need to be reported to DPSCS and likely vary by jurisdiction. It is assumed that the bill’s penalty provisions do not materially affect local government operations or finances. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill requires an animal abuser who is physically within the boundaries of the State for more than 10 consecutive days, to register with the local law enforcement unit in the county in which the animal abuser is located before the animal abuser's eleventh consecutive day in the State. The bill requires a previously registered animal abuser to reregister with the local law enforcement unit for the county in which the animal abuser is located no later than 10 days after moving to a new location within the State.

The animal abuser must provide, at the time of registration, the following registration information: (1) the date of birth of the animal abuser; (2) the Social Security number of the animal abuser; (3) the current address or location of the animal abuser; (4) the place of employment of the animal abuser; (5) the offense for which the animal abuser was convicted; and (6) the date and place of the applicable conviction or convictions.

The local law enforcement unit must obtain (1) a photograph of the animal abuser; (2) a complete set of fingerprints; and (3) a description of tattoos, scars, or other distinguishing features of the animal abuser's body that would assist in identifying the animal abuser. Following an initial registration, the registrant is required to annually renew the registration before December 31 of each subsequent year for a period of 15 years. The local law enforcement unit must forward all registration information obtained to DPSCS.

DPSCS is required to maintain a central registry of registrants. The registry must be made available to the public via the Internet and in written form upon written or oral request. All information in an individual registration, except for the Social Security number, must be made available to the public. Records of each registration must be maintained for the duration of the period in which the person is required to be registered.

A person is prohibited from intentionally or knowingly failing to comply with the registration requirements or providing false information when complying with the registration requirements. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000 for a first offense. For a second or subsequent offense, a violator is subject to maximum penalties of imprisonment for two years and/or a fine of \$5,000.

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. The court may order a person convicted of this crime to undergo and pay for psychological counseling. As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.

A person may not knowingly attend a deliberately conducted dog fight as a spectator. A person may not knowingly attend as a spectator a deliberately conducted event that uses a fowl, cock, or other bird to fight with another fowl, cock, or other bird. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$2,500. The court may order a person convicted of this crime to undergo and pay for psychological counseling.

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. The court may order a person convicted of this crime to undergo and pay for psychological counseling. 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 dog fight or for baiting; (2) arrange or conduct a dog fight; (3) possess, own, sell, transport, or train a dog with the intent to use the dog in a dog fight or for baiting; or (4) knowingly allow premises under his or her control to be used for dog fighting or for baiting. 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. The court may order a person convicted of this crime to undergo and pay for psychological counseling.

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 this crime to undergo and pay for psychological counseling.

A person may not kill or allow a dog or cat to be killed by use of (1) a decompression chamber; (2) carbon monoxide gas; or (3) curariform drugs. A violator is guilty of a misdemeanor and subject to a maximum a fine of \$500.

A person who owns, possesses, or has custody of a domestic animal may not drop or leave the animal on a road, in a public place, or on private property with the intent to abandon the animal. A violator is guilty of a misdemeanor and subject to a maximum fine of \$100.

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.

Background: The registry created under the bill is similar to the current sex offender registry operated and maintained by DPSCS.

According to the Humane Society of the United States (HSUS), 47 states currently have felony provisions for animal cruelty: 13 were enacted between 1986 and 1996 and 28 more were enacted between 1997 and 2011. In 2012, HSUS reported that 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 Expenditures: Establishing an animal abuse registry within DPSCS costs approximately \$310,733 in fiscal 2015, which includes a one-time expenditure of \$255,500 in computer programming expenses. This estimate reflects the cost of hiring one administrative officer and includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

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Salary and Fringe Benefits	\$50,428
Computer Programming Expenses	255,500
Other Operating Expenses	<u>4,805</u>
Total FY 2015 State Expenditures	\$310,733

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

The Administrative Office of the Courts 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.

It is assumed that any additional caseload for the Office of the Public Defender resulting from legal challenges to inclusion in the registry can be handled with existing budgeted resources.

Local Expenditures: The workload of local law enforcement units may increase. A brief survey of local jurisdictions by the Department of Legislative Services yielded the following information:

- Baltimore City reports that the bill likely requires the city to hire one additional police officer and one administrative staff.
- Howard County reports that the bill requires the county to hire one part-time employee to handle the bill's requirements, at an annual cost of about \$16,000.
- Montgomery County reports minimal fiscal or operational impact under the bill. The county normally charges such offenses under the county code and rarely charges persons using the bill's covered State prohibitions.
- Prince George's County reports that the bill has minimal or no fiscal impact on the county.
- For a similar bill, Worcester County reported that the bill's requirements require the hiring of one additional full-time county employee. The salary, fringe benefits, training, equipment, and vehicle for that person totals about \$130,000 in fiscal 2015 and about \$45,000 per year thereafter. For that same bill, Washington County estimated additional costs of about \$8,000 annually resulting from additional responsibilities under the bill.

Additional Information

Prior Introductions: SB 301 of 2012, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 1020, received an unfavorable report by the House Judiciary Committee.

Cross File: None.

Information Source(s): Baltimore City; Howard, Montgomery, and Prince George's counties; Judiciary (Administrative Office of the Courts); Maryland Association of Counties; Department of Public Safety and Correctional Services; Department of Legislative Services

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