

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 665
Judiciary

(Delegate Kramer, *et al.*)

Judicial Proceedings

Crimes Relating to Animals - Surgery on Dogs - Penalties

This bill prohibits a person, other than a licensed veterinarian who is using anesthesia on the animal, when appropriate, from (1) cropping or cutting off the ear of a dog; (2) docking or cutting off the tail of a dog; (3) cutting off the dewclaw of a dog; or (4) surgically birthing a dog.

Violators are guilty of a misdemeanor, punishable by imprisonment for 90 days and/or a maximum fine of \$1,000 for a first offense and imprisonment for up to 180 days and/or a maximum fine of \$5,000 for a second or subsequent offense.

Fiscal Summary

State Effect: Minimal increase in general fund revenues from fines imposed in the District Court. Minimal increase in general fund expenditures due to the bill's incarceration penalties.

Local Effect: Minimal increase in local revenues from fines imposed in circuit court cases. Minimal increase in local expenditures due to the bill's incarceration penalties.

Small Business Effect: Potential meaningful.

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. As a condition of probation, a 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.

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

Background: Ear cropping involves the reduction of a dog's ear with a blade. The procedure is typically performed when a dog is between 6 and 12 weeks old to modify the shape of the dog's ear to allow a naturally drooping ear to stand upright. The American Veterinary Medical Association (AVMA) advises that ear cropping should always be performed under anesthesia. Ear cropping and tail docking are also done for safety and health reasons. According to its most recent policy, the AVMA opposes ear cropping and tail docking of dogs when done solely for cosmetic purposes and encourages the elimination of ear cropping and tail docking from breed standards.

Dewclaw removal involves the removal from a dog's paw of an additional claw that serves no purpose. Dewclaws are often removed to prevent injuries sustained from the dewclaw becoming caught on something or torn.

Some dog breeders and trainers of certain dog breeds may rely on cesarean-section procedures for the birth of pups. According to information on the website critters360.com, puppies with big heads and narrow hips may have a difficult time in the birth canal and have to be delivered by cesarean section to promote survival. Some breeds regarded as more likely to require this procedure include bulldogs, pugs, boxers, bull mastiffs, and pomeranians. Pennsylvania enacted similar legislation in 2009.

There may be circumstances where, due to the condition or age of the animal (*e.g.*, shortly after birth), the use of anesthesia by a veterinarian is contraindicated because the use of anesthesia could be life threatening. This is especially applicable with respect to tail docking, which is often performed when a dog is younger than one week old.

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 penalties due to more people being committed to State correctional 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.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalties. 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 have ranged from approximately \$60 to \$160 per inmate in recent years.

Wicomico County advises that the bill results in a minimal fiscal impact. The county receives five or six complaints each year regarding the activities prohibited by the bill. Montgomery County does not anticipate a fiscal impact from the bill.

Small Business Effect: The bill has a potential meaningful impact on nonveterinary small businesses that perform these procedures and small business veterinary practices that receive business diverted from nonveterinarians. It is unclear to what extent the bill deviates from current veterinary practice and to what extent individuals other than veterinarians (*e.g.*, breeders) perform these procedures. The State Board of Veterinary Medical Examiners advises that statistics are not available on the number of persons who perform the procedures listed in the bill.

Additional Information

Prior Introductions: None.

Cross File: SB 659 (Senator Gladden) - Judicial Proceedings.

Information Source(s): Montgomery and Wicomico counties, Maryland Department of Agriculture, Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, American Veterinary Medical Association, American Kennel Club, www.critters360.com, University Animal Hospital, Animal Law Coalition, Department of Legislative Services

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Analysis by: Amy A. Devadas

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