

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 149

(Senator Zirkin)

Judicial Proceedings

Criminal Law - Animal Cruelty - Payment of Costs

This bill authorizes a court to order a defendant convicted of specified animal cruelty offenses to pay all reasonable costs incurred in removing, housing, treating, or euthanizing an animal confiscated from the defendant. The order is a condition of sentencing and the payment is in addition to any other fines and costs imposed by the court. The applicable offenses are: (1) animal abuse or neglect; (2) felony aggravated cruelty to animals (general); (3) felony aggravated cruelty to animals (dogfighting); and (4) felony aggravated cruelty to animals (cockfighting).

Fiscal Summary

State Effect: None. The bill is procedural and does not materially affect State finances.

Local Effect: Potential minimal decrease in local government expenditures to the extent the court-ordered payments defray costs incurred by local government entities that care for confiscated animals.

Small Business Effect: Potential meaningful impact to the extent that court-ordered payments defray costs incurred by small businesses that care for confiscated animals.

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 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 or for baiting; (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 for baiting; or (4) knowingly allow premises under the person's control to be used for dogfighting 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.

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.

Local Expenditures: The bill reduces local government expenditures to the extent the court-ordered payments defray costs incurred by local government entities that care for confiscated animals. The extent of this reduction will vary by county, case, and year. Carroll County advises that costs involved in cases involving herds of animals, such as

horses or cows, have been known to surpass \$100,000. However, such cases occur randomly and sporadically. Charles County advises that in most years, the county has not had many cases that have gone to court. However, for the recent cases that have gone to court, the county has had to pay for the veterinary exams, treatment, and housing of the confiscated animals. Charles County estimates that the costs associated with these activities have ranged from \$5,000 in one case to \$102,900 in another case.

Queen Anne's and St. Mary's counties advise that the bill has negligible or no fiscal impact on their jurisdictions. Montgomery County has previously advised that it does not anticipate a fiscal impact from this type of legislation and reports that the county has a local law that is enforced with similar provisions/conditions for payment of care.

Additional Information

Prior Introductions: SB 37 of 2013 passed the Senate and received a hearing in the House Judiciary Committee. No further action was taken on the bill. Its cross file, HB 865 received a hearing in the House Judiciary Committee. No further action was taken on the bill. SB 203 of 2012 passed the Senate as amended and received a hearing in the House Judiciary Committee. No further action was taken. Its cross file, HB 484, received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: None. However, HB 93 (Delegate Murphy) – Judiciary is substantially similar.

Information Source(s): Carroll, Cecil, Charles, Montgomery, Queen Anne's, and St. Mary's counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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mam/kdm

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