

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 876 (Delegate Miele, *et al.*)
 Environment and Transportation

Agriculture - Animal Shelters - Uniform Standards of Operation and Care
 (Animal Shelter Standards Act of 2015)

This bill establishes standards for animal shelters regarding animal care, handling and destination of animals, euthanasia, loaning of humane animal-capture traps to the public, and recordkeeping. The bill also establishes a penalty for violation of euthanasia standards, a right of action to enjoin a violation of the bill’s provisions or seek damages, and specified protection from liability for animal shelters.

Fiscal Summary

State Effect: General fund expenditures increase by \$142,900 in FY 2016 for the Maryland Department of Agriculture (MDA) to enforce the bill. Future years reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	142,900	159,900	166,700	174,200	182,100
Net Effect	(\$142,900)	(\$159,900)	(\$166,700)	(\$174,200)	(\$182,100)

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

Local Effect: Local government expenditures increase, perhaps significantly, in at least some jurisdictions as a result of the bill’s requirements. Potential minimal increase in revenues due to the bill’s penalty provisions. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary:

Animal Shelter – Defined

“Animal shelter” means a public or private facility that (1) has a physical structure that provides temporary or permanent shelter to stray, abandoned, abused, or owner-surrendered animals and (2) is owned, operated, or maintained by a government entity or an entity having a contract for animal sheltering, care, or control with a government entity.

Animal Care

An animal shelter must develop and adhere to a specified written veterinary care protocol that addresses animals’ health, safety, and well-being. The protocol must be based on the most recent Association of Shelter Veterinarian’s (ASV) Guidelines for Standards of Care in Animal Shelters and be updated as necessary to reasonably accommodate any subsequent updates to the guidelines. An animal shelter must use due diligence and reasonable efforts to ensure that an animal needing urgent care receives appropriate veterinary care as soon as possible.

Handling and Destination of Animals

The bill specifies standards regarding the handling and destination of animals in the care of an animal shelter that must be followed, including:

- subject to exceptions, holding an animal for a minimum of 72 hours, not including days when the animal shelter is closed to the public, before allowing an animal to be adopted, transferring the animal to another shelter or animal rescue organization, or returning the animal to the field;
- not taking custody of an ear-tipped cat (a cat whose left ear tip has been removed) or a cat involved in a trap-neuter-return program, except under specified circumstances related to the cat’s health, safety, and well-being;
- inspecting animals taken into custody for all currently acceptable methods of identification (*e.g.*, ear tipping, microchip, tags, etc.) within 24 hours of intake;
- using due diligence to determine proof of ownership and identity for an owner-surrendered animal;
- receiving owner-surrendered animals during the animal shelter’s ordinary business hours or by appointment;

- making reasonable efforts to accommodate a person intending to adopt, foster, or transfer sheltered animals by having hours of operation during evenings, weekends, and holidays;
- maintaining a current list of all animals reported as lost and attempting to match lost animals with those reported to have been found and with those in the animal shelter's custody;
- maintaining information on animal rescue organizations to facilitate fostering or adopting of sheltered animals and managing of feral cats;
- using due diligence, including Internet-based resources and lost pet services, to notify the public of all stray animals in the animal shelter's custody; and
- allowing all sheltered animals to be photographed for purposes of identification.

Euthanasia

An animal shelter that performs euthanasia on its premises or through a separate entity must have a current written policy regarding determinations of which animals may be euthanized and the procedure for euthanasia. Specified standards must be followed, which generally require that there be no reasonable alternative or that specified circumstances exist involving irremediable suffering, medical necessity, or safety. Animal behavior testing may not be used to determine that a cat may be euthanized and may not be the sole reason to determine that a dog may be euthanized, except in specified cases where a dog is deemed dangerous. An owner-surrendered animal may not be euthanized within the first 24 hours from the animal's intake unless the animal is surrendered for owner-requested euthanasia, irremediable physical suffering, medical necessity, or being a clear and present danger.

Humane Animal-capture Traps

An animal shelter may not loan a humane animal-capture trap to the public for a lethal purpose and must require a person borrowing a humane animal-capture trap to provide the animal shelter with photo identification and current contact information as well as the identification number of the trap borrowed.

Recordkeeping

An animal shelter must maintain specified records on each animal taken into custody. All records must be made available on request to the public in their original form, in an easily accessible format, and at a reasonable cost. Records regarding the number of cats and dogs taken in and the number disposed of, broken down by method of disposal, including euthanasia, must be maintained for three years and made available on the animal shelter's website or in a conspicuous location within the facility.

Penalties, Right of Action, and Liability

A person who violates the standards for euthanasia is guilty of a misdemeanor and subject to a fine of up to \$2,500 per violation. Each individual animal harmed is a separate violation.

A civil action may be brought for a violation of the bill's provisions for money damages or to enjoin a violation. A civil action must be prosecuted by the Attorney General on behalf of MDA, a public body, or an officer authorized by law. The circuit court of the county where the violation occurred has jurisdiction to enforce the bill's provisions.

Unless an animal shelter is grossly negligent, the animal shelter is immune from any claim for personal injury or property damage arising from an adoption, a transfer, or the fostering of an animal in the animal shelter's custody, including a claim brought by a third party.

Current Law: The State Board of Veterinary Medical Examiners (SBVME), in addition to licensing and registering veterinarians, licensing and inspecting veterinary hospitals, and registering veterinary technicians, also licenses animal control facilities to allow them to administer drugs needed to sedate, euthanize, or sedate and euthanize animals. "Animal control facility" is defined as a humane society or a county or municipal designated animal shelter. SBVME regulations, among other things, require registration with the Department of Health and Mental Hygiene and the federal Drug Enforcement Administration before purchasing controlled dangerous substances, training on topics including humane methods of euthanasia, specified quality control, and maintenance of records of all animal control activities that involve the use of drugs.

Background: ASV is an international organization that has a mission of improving the health and well-being of animals in shelters through the advancement of shelter medicine. ASV's Guidelines for Standards of Care in Animal Shelters referenced in the bill are intended to serve as a source of evidence-based information and support for organizations seeking to provide the most humane care possible for animals. Background information in the guidelines (which were published in 2010) indicates that the care of animals in shelters is not standardized or regulated at the national level and regulations are inconsistent and often inadequately monitored at the state and local levels. The guidelines are based on the Five Freedoms for Animal Welfare created in 1965 in the United Kingdom: (1) freedom from hunger and thirst; (2) freedom from discomfort; (3) freedom from pain, injury, or disease; (4) freedom to express normal behavior; and (5) freedom from fear and distress.

State Expenditures: General fund expenditures increase by \$142,885 in fiscal 2016, which accounts for the bill's October 1, 2015 effective date. This estimate reflects the cost of hiring a part-time assistant Attorney General, a part-time veterinarian, and a full-time

investigator within MDA. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

MDA indicates that enforcement of the bill, which will be complaint-driven, cannot be handled by existing staff without limiting their ability to fulfill existing responsibilities. The estimate assumes an ongoing workload associated with investigation and resolution of complaints. The assistant Attorney General handles legal aspects of enforcement actions and the veterinarian and investigator handle investigation of complaints and recommendations for corrective action.

Positions (FTE)	2
Salaries and Fringe Benefits	\$110,177
Other Operating Expenses	<u>32,708</u>
Total FY 2016 State Expenditures	\$142,885

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

Local Expenditures: Local government expenditures are expected to increase in at least some jurisdictions, potentially significantly, in order for animal shelters, either run by local governments or contracted with by local governments, to meet the standards in the bill. The local governments likely bear a portion, if not all, of those costs. The extent of any increase in costs cannot be reliably estimated. It appears that operations and facilities of shelters affected by the bill vary and certain requirements of the bill seem open to interpretation regarding what actions need to be taken by a given shelter to comply, making it difficult to determine the extent of costs incurred. Based on information gathered from certain counties and those managing/running government-affiliated shelters, however, it appears that costs for shelters and their respective counties or municipalities increase, potentially significantly, in at least some jurisdictions.

Local Revenues: Local government revenues may increase minimally due to the bill's monetary penalty provisions.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture; Judiciary (Administrative Office of the Courts); Baltimore, Carroll, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Humane Society of Carroll County, Inc.; Animal Welfare League of Queen Anne's County; Professional Animal Workers of Maryland, Inc.; Delaware Office of Animal Welfare; Association of Shelter Veterinarians; Department of Legislative Services

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