

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 283

(Senator Lee, *et al.*)

Judicial Proceedings

Judiciary

Criminal Law - Cruelty to Animals - Implement of Dogfighting

This bill prohibits a person from possessing, with the intent to unlawfully use, an “implement of dogfighting.” A dogfighting implement includes (1) a breaking stick; (2) a cat mill; (3) a springpole; (4) a fighting pit or other confined area designed to contain a dogfight; (5) a breeding stand; or (6) any other instrument or device commonly used for training, preparation, breeding, and conditioning for dogfights. Each implement of dogfighting that is possessed unlawfully is considered a separate offense. Violators are guilty of a misdemeanor and on conviction subject to maximum penalties of 90 days imprisonment and/or a \$5,000 fine. A court may order a violator to participate in and pay for psychological counseling.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s penalty provision. Enforcement can be handled with existing budgeted resources.

Local Effect: Minimal increase in local revenues and expenditures due to the bill’s penalty provision. Enforcement can be handled with existing resources.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Implement of dogfighting” means an implement, object, device, or drug intended or designed to enhance the fighting ability of a dog or for use in a deliberately conducted event that uses a dog to fight with another dog. The term includes:

- a breaking stick designed for insertion behind the molars of a dog to break the dog's grip on another animal or object;
- a cat mill that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;
- a springpole that has a biting surface attached to a stretchable device suspended at a height sufficient to prevent an animal from reaching the biting surface while touching the ground;
- a fighting pit or other confined area designed to contain a dogfight;
- a breeding stand or rape stand used to immobilize female dogs for breeding purposes; and
- any other instrument or device that is commonly used in the training for, in the preparation for, in the conditioning for, in the breeding for, in the conducting of, or otherwise in furtherance of a dogfight.

Current Law:

Misdemeanor Animal Abuse/Neglect: 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.

Felony Animal Cruelty: 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.

Felony Dogfighting: 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.

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

There is no definition in the Criminal Law Article for "dogfighting."

Background: The Department of Public Safety and Correctional Services advises that in fiscal 2015, there were 55 probation intakes for animal cruelty violations. In that same year, four individuals were incarcerated for animal cruelty, and the average sentence for those individuals was nine months.

In December 2015, Baltimore City enacted an ordinance prohibiting animal fighting paraphernalia. Concern has been growing in the city after the Baltimore Police Department investigated a large dogfighting ring. Indictments were issued to 22 alleged members in 2014, and 139 dogs and 28 puppies were recovered. Law enforcement officials advised that individuals involved in dogfighting activity typically engage in other violent crimes. For example, 17 of the 22 individuals indicted had previous convictions for handgun violations and sex offenses, and at least one had a previous conviction for homicide.

On January 1, 2016, the Federal Bureau of Investigation began collecting detailed information on animal cruelty offenses for its comprehensive national crime database. Recently included as a specific category in the Uniform Crime Reporting Program, animal cruelty can now be tracked over time. There are at least seven states that specifically prohibit dog or animal fighting paraphernalia: Indiana, Kansas, Nebraska, New York, Oregon, Pennsylvania, and Utah.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities for convictions in Baltimore City. The number of people convicted under the bill is expected to be minimal.

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 Pretrial Complex, 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. 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 583 (Delegate Lam, *et al.*) – Judiciary.

Information Source(s): Baltimore City, Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, Department of State Police, Westlaw, www.fbi.gov, *Baltimore Sun*, www.voteanimals.org, www.abc2news.com, Department of Legislative Services

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