

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1586 (Delegates McConkey and Sophocleus)
Rules and Executive Nominations

Crimes Related to Animals - Penalties - Mandatory Reporting

This bill requires a veterinarian to report, either orally or in writing, any suspected abuse or neglect of any animal treated by the veterinarian to the appropriate law enforcement agency as soon as possible. The report must contain specified information. A veterinarian who willfully violates the bill's provisions is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000. The bill also establishes increased penalties that apply to subsequent offenders of specified animal cruelty misdemeanors and felonies.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's increased penalty provisions. Enforcement can otherwise be handled with existing resources.

Local Effect: Minimal increase in revenues and expenditures due to the bill's increased penalty provisions. Any impact on circuit court caseloads is likely minimal.

Small Business Effect: Minimal. Existing veterinary medical practice standards encourage reporting of suspected animal abuse.

Analysis

Bill Summary:

Veterinarian Report

A report submitted by a veterinarian to a law enforcement agency pursuant to the bill must contain (1) a description of the animal; (2) the name and home address of the animal's

owner; (3) the location of the animal; (4) the nature and extent of the suspected animal abuse or neglect, including previous instances of suspected abuse; and (5) any other information that would help in determining the cause of suspected abuse or neglect and the identity of the person responsible.

Increased Penalties for Subsequent Offenders of Specified Animal Cruelty Offenses

A person who commits any of the several specified offenses, after having previously been convicted of committing that same offense, is subject to increased penalties. With the exception of the increased fine for the “live animals as prize” offense, the penalties under existing law remain unaltered for first-time offenders. Current penalties for these offenses, as well as the increased penalties proposed by the bill, are shown in **Exhibit 1**.

The bill also *authorizes* a court to prohibit owning, possessing, or residing with an animal as a condition of probation after a first or second offense, and it *requires* a court to do so for a third or subsequent offense for (1) misdemeanor animal abuse or neglect; (2) attending a dogfight or cockfight; (3) aggravated animal cruelty; (4) aggravated cruelty – dogfighting; (5) aggravated cruelty – cockfighting; and (6) unattended and restrained dogs.

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.

Attending Dogfights or Cockfights: A person may not knowingly attend a deliberately conducted dogfight 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.

Exhibit 1
Comparison of Current Maximum Penalties to Increased Maximum Penalties under the Bill

<u>Offense</u>	Current Maximum Penalties¹		Proposed Maximum Penalties if Previously Convicted of Any Specified Offense^{1,2}			
	<u>Imprisonment</u>	<u>Fine</u>	Second Offense		Third/Subsequent Offense	
			<u>Imprisonment</u>	<u>Fine</u>	<u>Imprisonment</u>	<u>Fine</u>
Misdemeanor Animal Abuse/Neglect	90 days	\$1,000	90 days	\$5,000	1 year	\$10,000
Attending Dogfight or Cockfight (misdemeanor)	1 year	\$2,500	1 year	\$5,000	1 year	\$10,000
Aggravated Animal Cruelty	3 years	\$5,000	3 years	\$10,000	3 years	\$15,000
Aggravated Cruelty – Dogfighting	3 years	\$5,000	3 years	\$10,000	3 years	\$15,000
Felony Cockfighting	3 years	\$5,000	3 years	\$10,000	3 years	\$15,000
Awarding Live Prize Animals (misdemeanor) ³	N/A	\$500	N/A	\$3,000	N/A	\$3,000
Unattended Dog in Restraints (misdemeanor)	90 days	\$1,000	1 year	\$5,000	2 years	\$5,000

¹Under both current law and the bill, the maximum penalties may be the imprisonment term noted, the fine noted, or both.

²Proposed maximum penalties apply under the bill if previously convicted of the same offense.

³The bill increases the maximum fine, from \$500 to \$1,000, for a first violation of the offense of Awarding Live Prize Animals.

Source: Department of Legislative Services

Aggravated 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.

Aggravated Cruelty – 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.

Aggravated Cruelty – Cockfighting: 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.

The offenses listed above do not include customary and normal veterinary and agricultural husbandry practices including (1) dehorning, castration, tail docking, and limit feeding; (2) research conducted in accordance with the federal Animal Welfare Act or the federal Health Research Extension Act; (3) activities that may cause unavoidable physical pain to an animal, including food processing, pest elimination, animal training, and hunting, if the person performing the activity uses the most humane method reasonably available; or (4) normal human activities in which the infliction of pain to an animal is purely incidental and unavoidable.

Unattended Dogs/Use of Restraint: A person may not leave a dog outside and unattended by use of a restraint that (1) unreasonably limits the movement of the dog; (2) uses a “collar” that is made primarily of metal or is not at least as large as the circumference of

the dog's neck plus one inch; (3) restricts the access of the dog to suitable and sufficient clean water or appropriate shelter; (4) is in unsafe or unsanitary conditions; or (5) causes injury to the dog. Violators are guilty of a misdemeanor, punishable by imprisonment for up to 90 days and/or a \$1,000 maximum fine.

“Collar” is a device constructed of nylon, leather, or similar material specifically designed to be used around the neck of a dog. “Restraint” means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

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

Live Prize Animals: Unless approved by the Secretary of Agriculture, a person may not give away a live animal as:

- a prize for, or inducement to enter, a contest, game, or other competition;
- an inducement to enter a place of amusement; or
- an incentive to make a business agreement if the offer is to attract trade.

The prohibition does not include animals used for agricultural projects, conservation purposes, or intended for slaughter. Violators are guilty of a misdemeanor, punishable by a \$500 maximum fine.

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, six individuals were incarcerated for animal cruelty, and the average sentence for those individuals was nine months.

As of 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.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court. Any impact depends on changes in sentencing practices due to the bill.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalties due to people being committed to State correctional facilities for longer periods of time and increased payments to counties for reimbursement of inmate

costs. The number of people subject to increased incarceration under this bill is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,300 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable health care costs) is about \$770 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. 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 provisions from cases heard in the circuit courts. Any impact depends on changes in sentencing practices due to the bill.

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. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility. 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: SB 722 (Senator Young) - Judicial Proceedings.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Maryland Department of Agriculture, Department of Public Safety and Correctional Services, Department of State Police, Department of Legislative Services

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