

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 790

(Senator Smith)

Judicial Proceedings

Judiciary

Criminal Law - Animal Cruelty - Applicability

This bill clarifies that a person is guilty of animal abuse or neglect if the person has charge or custody of an animal and unnecessarily fails to provide the animal with *any* one of the following: proper air, proper space, proper shelter, or proper protection from the weather. Similarly, the bill clarifies that a person is guilty of aggravated cruelty to animals if the person does *any* one of the following intentional acts: mutilates, tortures, cruelly beats, or cruelly kills an animal.

Fiscal Summary

State Effect: None. The bill clarifies current law.

Local Effect: None. The bill clarifies current law.

Small Business Effect: None.

Analysis

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.

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.

The court may order a person convicted of any of these crimes to undergo and pay for psychological counseling. The court may also prohibit a defendant from owning, possessing, or residing with an animal as a condition of probation.

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.

State law also prohibits dogfighting, cockfighting, possession of dogfighting implements under certain circumstances, and/or the use of certain restraints on unattended dogs.

Background: The Maryland State Commission on Criminal Sentencing Policy advises that, in fiscal 2016, five individuals were convicted of misdemeanor animal abuse or neglect and three individuals were convicted of the felony of aggravated animal abuse by the circuit courts.

The Department of Public Safety and Correctional Services advises that, in fiscal 2016, there were 55 probation intakes for animal cruelty violations. On January 1, 2016, the

Federal Bureau of Investigation began collecting detailed information on animal cruelty offenses for its comprehensive national crime database. As a specific category in the Uniform Crime Reporting Program, specified animal cruelty offenses can be tracked over time.

Additional Information

Prior Introductions: None.

Cross File: HB 455 (Delegate Atterbeary, *et al.*) - Judiciary.

Information Source(s): Baltimore City; Calvert, Caroline, Montgomery, and Prince George's counties; cities of Bowie and Takoma Park; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2017
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