

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 631

(Senator Madaleno, *et al.*)

Judicial Proceedings

Appropriations

Criminal Law - Animal Abuse Emergency Compensation Fund - Establishment

This bill establishes the Animal Abuse Emergency Compensation Fund (AAECF), administered by the Governor's Office of Crime Control and Prevention (GOCCP), to assist in paying costs associated with the removal and care of animals impounded under the State's animal abuse and neglect law. The fund consists primarily of fines levied as a result of conviction of an animal abuse crime and money appropriated in the State budget to the fund. GOCCP receives up to \$50,000 each fiscal year from the fund to offset its administrative costs. The fund is subject to audit by the Office of Legislative Audits (OLA) in the manner specified in State law.

The bill terminates September 30, 2020.

Fiscal Summary

State Effect: General fund revenues decrease through September 30, 2020, due to the redirection of specified fines, forfeitures, and penalties to AAECF. Special fund revenues to AAECF and expenditures from AAECF increase correspondingly during the same period. General fund expenditures for the Judiciary increase by \$4,400 in FY 2018 only for computer programming. OLA can audit the new fund with existing resources.

Local Effect: Local government animal control unit revenues increase, likely minimally, due to the reimbursement of expenses incurred for the removal and care of impounded animals, to the extent funding is available.

Small Business Effect: Minimal or none.

Analysis

Bill Summary: The bill requires the clerks of the District Court to collect fines, forfeitures, and penalties imposed by the court for violations of animal abuse or neglect and aggravated animal cruelty, including dogfighting and cockfighting, and remit the fines, forfeitures, and penalties to AAECF.

In addition to those penalties, the fund consists of money appropriated in the State budget to the fund, interest earnings of the fund, and any other money from any other source accepted for the benefit of the fund.

The fund may be used only to defray the reasonable costs incurred by an animal control unit or a nonprofit animal welfare organization in caring for an animal from the time of seizure until the outcome of the criminal case, including costs related to impounding, transportation, medical care, food, shelter, and routine care.

Current Law: The clerks of the District Court must collect costs, fines, forfeitures, or penalties imposed by the court and remit them to the State under a system agreed upon by the Chief Judge of the District Court and the Comptroller.

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 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.

Felony Aggravated Animal 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 maximum penalties of three years imprisonment and/or a \$5,000 fine.

Felony Aggravated Animal 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 is subject to maximum penalties of three years imprisonment and/or a \$5,000 fine.

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.

Office of Legislative Audits: Generally, OLA must conduct a fiscal/compliance audit of each unit of the State government (except for units of the Legislative Branch) at an interval ranging from three to four years, unless the Legislative Auditor determines, on a case-by-case basis, that more frequent audits are required. Each agency or program may be audited separately or as part of a larger organizational unit of State government. OLA must also conduct performance audits or financial statement audits when authorized by the Legislative Auditor, directed by the Joint Audit Committee or the Executive Director of the Department of Legislative Services (DLS), or otherwise required by law.

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 aggravated animal abuse in the circuit

courts. The number of individuals convicted in the District Court and the amount of any fines collected, to the extent imposed, is not available.

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 now be tracked over time.

State Fiscal Effect:

Redirection of Fine Penalties to the New Fund: The bill establishes AAECF as a special fund which is intended to assist in paying costs associated with the removal and care of animals impounded under State animal crime laws. The fund consists of fines, forfeitures and penalties imposed by the District Court for violations of (1) misdemeanor animal abuse or neglect (maximum fine of \$1,000); (2) felony aggravated animal cruelty (maximum fine of \$5,000); (3) felony aggravated cruelty – dogfighting (maximum fine of \$5,000); and (4) felony aggravated animal cruelty – cockfighting (maximum fine of \$5,000). AAECF also consists of money appropriated in the State budget for the fund, interest earnings, and any other money from any other source accepted for the benefit of AAECF.

The bill redirects the fines from the above-listed crimes, which would otherwise have been disbursed to the general fund, to AAECF. Thus, general fund revenues decrease, and special fund revenues to AAECF increase correspondingly. The redirection of fines, forfeitures, and penalties terminates on September 30, 2020.

Information is not available on the total amount of fines that may be available for redirection. In addition, the analysis does not reflect the impact of any investment earnings that may accrue to the fund.

Expenditures from the New Fund: This estimate assumes that all redirected funds are spent for distribution to local governments and/or animal welfare organizations and to defray GOCCP's administrative costs. Thus, it is assumed that special fund expenditures increase by an amount equal to special fund revenues each year (through September 30, 2020, when the bill terminates).

The bill requires that GOCCP receive up to \$50,000 from AAECF each fiscal year to defray its administrative costs. GOCCP advises that it needs to hire at least one half-time contractual staff person to administer the fund, at a cost of approximately \$25,000 annually in fiscal 2018 through 2020 and approximately \$7,000 in fiscal 2021 (due to the bill's September 30, 2020 termination date). DLS advises, however, that the need for a staff person is dependent on the revenues that actually accrue to the fund. In the absence of any

historical information from the Judiciary about the fines assessed in the crimes subject to the bill, it is unknown whether sufficient revenues are available to support the fund's purpose and defray GOCCP's administrative expenses. This analysis assumes that the funds used by GOCCP are proportional to the total amount of revenues available, and that most of the revenue accruing to the fund is used for its primary purpose of offsetting the costs to fund recipients for services to impounded animals. If there are few fines imposed in any one year, then the resources to administer AAECF are likewise limited. For purposes of this fiscal and policy note, it is assumed that GOCCP limits its administrative costs to maximize the funds that are provided to animal control units and nonprofit animal welfare organizations.

Judiciary (Administrative Office of the Courts): General fund expenditures increase by \$4,440 in fiscal 2018 for one-time computer programming changes to the Judicial Information System to allow clerks to designate, collect, and transfer fines and fees collected to AAECF. It is assumed that no additional programming costs are incurred upon termination of the bill.

Office of Legislative Audits: OLA can audit the new fund using existing budgeted resources.

Local Revenues: Local government animal control unit revenues increase, likely minimally, for the reimbursement of costs incurred for the caring and sheltering of animals seized from owners charged with specified animal abuse or neglect offenses.

Additional Information

Prior Introductions: None.

Cross File: HB 941 (Delegate A. Miller, *et al.*) - Appropriations.

Information Source(s): **Information Source(s):** Baltimore City; Harford, Montgomery, and Talbot counties; Governor's Office of Crime Control and Prevention; Judiciary (Administrative Office of the Courts); Maryland State Commission on Criminal Sentencing Policy; Office of Legislative Audits; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2017
fn/kdm
Third Reader - March 22, 2017
Revised - Amendment(s) - March 22, 2017

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