

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 565 (Delegate Moon, *et al.*)
 Judiciary

Criminal Law - Cruelty to Animals - Seizure and Removal

This bill requires, rather than authorizes, a court to order the removal of a mistreated animal at the time of a conviction for an act of animal cruelty. Ownership of an animal under court-ordered removal, as specified, means that ownership of the animal transfers immediately from the convicted owner to an “impounding agency.” The bill also establishes specified procedures for notifying owners or custodians that an animal has been seized and removed.

Fiscal Summary

State Effect: General fund expenditures increase by \$40,800 in FY 2019 only. Revenues are not affected.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	40,800	0	0	0	0
Net Effect	(\$40,800)	\$0	\$0	\$0	\$0

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

Local Effect: The bill’s changes can be handled with existing budgeted resources. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: An “impounding agency” is a humane society, a law enforcement agency, or other public agency that has protection of animals as a function.

Upon seizure and removal of a mistreated animal, an impounding agency must conspicuously post at the location where any animal was seized and removed, a notice to the animal's owner or custodian indicating the seizure and removal and any administrative remedies available. The bill clarifies that any petition filed with the District Court by an owner must be filed within 10 days after the date of the notice. If an owner or custodian fails to file a petition for the return of the animal after receiving a notice, the animal is considered "abandoned" and ownership must transfer to the impounding agency.

Current Law: If an owner or custodian of an animal is convicted of an act of animal cruelty, the court *may* order the removal of the mistreated animal or any other animal at the time of conviction for the protection of the animal.

Animal Abuse Generally

State law prohibits the intentional abuse or neglect of an animal and specifically prohibits dogfighting, cockfighting, animal cruelty, and possession of the implements of dogfighting under specified circumstances.

These offenses 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.

An officer or authorized agent of a humane society, or a police officer or other public official required to protect animals may seize an animal if necessary to protect the animal from cruelty.

Impounded Animals

Under § 10-615 of the Criminal Law Article, if an animal is impounded, yarded, or confined without necessary food, water, or proper attention, is subject to cruelty, or is neglected, an officer or authorized agent of a humane society, a police officer, another public official required to protect animals, or any invited and accompanying veterinarian licensed in the State, may enter the place where the animal is located and supply the animal with necessary food, water, and attention, or remove the animal if removal is necessary for the health of the animal. A person who enters a place to perform any of these functions is not liable for any unauthorized entry. However, this provision does not allow removal of

a farm animal without the prior recommendation of a veterinarian licensed in the State or entry into a private dwelling.

A person who removes an impounded animal pursuant to State law must notify the animal's owner or custodian of the removal and any administrative remedies that may be available to the owner or custodian. If an administrative remedy is not available, the owner or custodian may file a petition for the return of the animal in the District Court of the county in which the removal occurred within 10 days after the removal.

Stray Animals

An animal is considered a stray if (1) an owner or custodian of the animal was notified pursuant to the statutory notice requirements and failed to file a petition within 10 days after removal or (2) the owner or custodian of the animal is unknown and cannot be ascertained by reasonable effort for 20 days.

Definitions

As applied to crimes relating to animals, "cruelty" means the unnecessary or unjustifiable physical pain or suffering caused or allowed by an act, omission, or neglect including torture and torment.

"Humane society" means a society or association incorporated in Maryland for the prevention of cruelty to animals.

Background: Chapter 410 of 2017 established the Animal Abuse Emergency Compensation Fund, 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. GOCCP receives up to \$50,000 each fiscal year from the fund to offset its administrative costs.

Information provided by the Administrative Office of the Courts indicates that over the past three fiscal years, an average of 1,147 animal abuse violations were adjudicated annually in the District Court.

State Expenditures: General fund expenditures for the Judiciary increase by \$40,820 in fiscal 2019 only for programming changes to its case management systems. However, the District Court and circuit courts can handle any increases in caseload with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County; cities of Bowie and Takoma Park; Judiciary (Administrative Office of the Courts); Maryland Association of County Health Officers; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2018
mm/kdm

Analysis by: Michelle Davis

Direct Inquiries to:
(410) 946-5510
(301) 970-5510