

SENATE BILL 152

E1, E2

9lr0860
CF HB 135

By: **Senators Ready, Benson, Edwards, Elfreth, Feldman, Guzzone, Jennings, Klausmeier, Kramer, Lam, Lee, Smith, Waldstreicher, Washington, West, Young, and Zirkin**

Introduced and read first time: January 21, 2019

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 12, 2019

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Cruelty to Animals – ~~Seizure and Removal~~ Payment of Costs**

3 FOR the purpose of ~~requiring a court to order the removal of a certain animal on the~~
4 ~~conviction of a certain owner or custodian of the animal of an act of cruelty to the~~
5 ~~animal; establishing that the ownership of a certain animal is transferred to a~~
6 ~~certain impounding agency under certain circumstances; authorizing an officer or~~
7 ~~authorized agent of a certain impounding agency to remove a certain animal under~~
8 ~~certain circumstances; requiring a certain impounding agency to post a certain notice~~
9 ~~to an animal's owner or a custodian under certain circumstances; requiring a certain~~
10 ~~impounding agency to make a reasonable attempt to provide certain notice to a~~
11 ~~certain person under certain circumstances; repealing a certain provision declaring~~
12 ~~an animal to be a stray under certain circumstances; authorizing the owner or~~
13 ~~custodian of a certain animal to petition the District Court for return of the animal~~
14 ~~at a certain time; requiring a certain petition to be served on a certain impounding~~
15 ~~agency; providing that a certain animal shall be considered forfeited to the~~
16 ~~impounding agency under certain circumstances; requiring the court to schedule a~~
17 ~~certain hearing at a certain time; requiring the court to make a certain~~
18 ~~determination at a certain hearing; requiring the court to order a certain person to~~
19 ~~post a certain bond for a certain time period under certain circumstances; requiring~~
20 ~~the court to determine the amount of a certain bond based on certain information at~~
21 ~~a certain hearing; requiring the court to order a certain new bond to be posted at a~~
22 ~~certain time under certain circumstances; providing that failure to post a certain~~
23 ~~bond within a certain time period shall result in the forfeiture of a certain animal;~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~requiring the court to order the return of a certain animal to a certain owner or custodian under certain circumstances; establishing that the owner or custodian of an animal seized or removed under certain provisions of law is liable for certain costs relating to the care of the animal during a certain period; authorizing a certain impounding agency to draw certain funds from a certain bond at a certain time; requiring the unused portion of a certain bond to be returned to a certain person at a certain time; providing that a certain owner or custodian is entitled to a refund of certain costs paid under certain circumstances; providing that this Act does not allow an officer or agent of a certain impounding agency from entering a certain dwelling unless there is probable cause to believe that a certain act of animal cruelty is being or has been committed; defining a certain term; making certain conforming changes; authorizing a court to order a defendant convicted of a certain charge of animal cruelty, as a condition of sentencing, to pay, in addition to any other fines and costs, all reasonable costs incurred in removing, housing, treating, or euthanizing an animal confiscated from the defendant; and generally relating to animal cruelty.~~

BY repealing and reenacting, with amendments,
 Article – Criminal Law
 Section ~~10-615~~ 10-604, 10-607, and 10-608
 Annotated Code of Maryland
 (2012 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 10-606
Annotated Code of Maryland
(2012 Replacement Volume and 2018 Supplement)
(As enacted by Chapter 238 of the Acts of the General Assembly of 2018)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Criminal Law

~~10-615.~~

~~(A) IN THIS SECTION, “IMPOUNDING AGENCY” MEANS A HUMANE SOCIETY, A LAW ENFORCEMENT AGENCY, OR ANY OTHER PUBLIC AGENCY THAT HAS THE PROTECTION OF ANIMALS AS A FUNCTION OF THE AGENCY.~~

~~[(a)] (B) (1) If an owner or custodian of an animal is convicted of an act of animal cruelty, AT THE TIME OF CONVICTION the court [may]:~~

~~(i) SHALL order the removal of the MISTREATED animal [or any other animal at the time of conviction] for the protection of the animal; AND~~

~~(H) MAY ORDER THE REMOVAL OF ANY OTHER ANIMAL FOR THE PROTECTION OF THE ANIMAL.~~

~~(2) OWNERSHIP OF AN ANIMAL THAT IS ORDERED TO BE REMOVED FROM AN OWNER OR A CUSTODIAN UNDER THIS SUBSECTION SHALL TRANSFER IMMEDIATELY TO THE IMPOUNDING AGENCY.~~

~~[(b)](C) (1) An officer or authorized agent of [a humane society, or a police officer or other public official required to protect animals] AN IMPOUNDING AGENCY may [seize] REMOVE an animal if necessary to protect the animal from cruelty.~~

~~(2) (i) An animal that a medical and scientific research facility possesses may be removed under this subsection only after review by and a recommendation from the Maryland Department of Health, Center for Veterinary Public Health.~~

~~(ii) The Maryland Department of Health shall:~~

~~1. conduct an investigation within 24 hours after receiving a complaint; and~~

~~2. within 24 hours after completing the investigation, report to the State's Attorney for the county in which the facility is situated.~~

~~[(e)](D) (1) 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] AN IMPOUNDING AGENCY, or any invited and accompanying veterinarian licensed in the State, may:~~

~~(i) enter the place where the animal is located and supply the animal with necessary food, water, and attention; or~~

~~(ii) remove the animal if removal is necessary for the health of the animal.~~

~~(2) A person who enters a place under paragraph (1) of this subsection is not liable because of the entry.~~

~~[(d) (1) A person who removed an animal under subsection (e) of this section shall notify the animal's owner or custodian of:~~

~~(i) the removal; and]~~

~~(E) (1) ON REMOVAL OF AN ANIMAL UNDER THIS SECTION, THE IMPOUNDING AGENCY SHALL POST IN A CONSPICUOUS PLACE AT THE LOCATION~~

1 ~~FROM WHICH THE ANIMAL WAS REMOVED A NOTICE TO THE ANIMAL'S OWNER OR~~
 2 ~~CUSTODIAN THAT INCLUDES:~~

3 ~~(I) A DESCRIPTION OF THE ANIMAL;~~

4 ~~(II) THE STATUTORY AUTHORITY AND REASON FOR THE~~
 5 ~~REMOVAL;~~

6 ~~[(ii)] (III) any administrative remedies that may be available to the~~
 7 ~~owner or custodian;~~

8 ~~(IV) CONTACT INFORMATION FOR THE IMPOUNDING AGENCY,~~
 9 ~~INCLUDING A NAME AND TELEPHONE NUMBER;~~

10 ~~(V) A STATEMENT THAT, IF THE REMOVAL OF THE ANIMAL WAS~~
 11 ~~JUSTIFIED, THE OWNER OR CUSTODIAN IS LIABLE FOR THE REASONABLE COSTS FOR~~
 12 ~~THE CARE OF THE ANIMAL;~~

13 ~~(VI) NOTICE OF THE RIGHT TO VOLUNTARILY FORFEIT THE~~
 14 ~~ANIMAL TO THE IMPOUNDING AUTHORITY; AND~~

15 ~~(VII) NOTICE OF THE RIGHT TO FILE A PETITION WITHIN 10 DAYS~~
 16 ~~AFTER THE DATE OF THE NOTICE FOR THE RETURN OF THE ANIMAL IN THE DISTRICT~~
 17 ~~COURT OF THE COUNTY IN WHICH THE REMOVAL OCCURRED.~~

18 ~~[(2) If an administrative remedy is not available, the owner or custodian~~
 19 ~~may file a petition for the return of the animal in the District Court of the county in which~~
 20 ~~the removal occurred within 10 days after the removal.]~~

21 ~~(2) IF THE PERSON WITH CUSTODY OF THE ANIMAL AT THE TIME OF~~
 22 ~~THE REMOVAL IS NOT THE OWNER OF THE ANIMAL OR IF NO PERSON HAS CUSTODY~~
 23 ~~OF THE ANIMAL AT THE TIME OF REMOVAL, THE IMPOUNDING AGENCY SHALL MAKE~~
 24 ~~A REASONABLE ATTEMPT TO PROVIDE THE NOTICE DESCRIBED IN PARAGRAPH (1)~~
 25 ~~OF THIS SUBSECTION TO THE OWNER OF THE ANIMAL.~~

26 ~~(3) IF THE IDENTITY OF THE OWNER OR CUSTODIAN OF THE ANIMAL~~
 27 ~~CANNOT BE ASCERTAINED WITHIN 10 DAYS AFTER THE REMOVAL OF THE ANIMAL,~~
 28 ~~THE ANIMAL SHALL BE CONSIDERED ABANDONED AND OWNERSHIP SHALL BE~~
 29 ~~TRANSFERRED TO THE IMPOUNDING AGENCY.~~

30 ~~[(c) An animal is considered a stray if:~~

31 ~~(1) an owner or custodian of the animal was notified under subsection (d)~~
 32 ~~of this section and failed to file a petition within 10 days after removal; or~~

1 ~~(2) the owner or custodian of the animal is unknown and cannot be~~
2 ~~ascertained by reasonable effort for 20 days to determine the owner or custodian.]~~

3 ~~(F) (1) (i) THE OWNER OR CUSTODIAN OF AN ANIMAL REMOVED~~
4 ~~UNDER THIS SECTION MAY PETITION THE DISTRICT COURT IN THE COUNTY WHERE~~
5 ~~THE REMOVAL OCCURRED FOR THE RETURN OF THE ANIMAL WITHIN 10 DAYS AFTER~~
6 ~~THE SEIZURE OR REMOVAL.~~

7 ~~(ii) A PETITION FILED UNDER THIS PARAGRAPH SHALL BE~~
8 ~~SERVED ON THE IMPOUNDING AGENCY.~~

9 ~~(iii) IF THE OWNER OR CUSTODIAN FAILS TO FILE A PETITION~~
10 ~~UNDER THIS PARAGRAPH WITHIN 10 DAYS AFTER THE SEIZURE OR REMOVAL, THE~~
11 ~~ANIMAL SHALL BE CONSIDERED FORFEITED TO THE IMPOUNDING AGENCY.~~

12 ~~(2) THE DISTRICT COURT SHALL SCHEDULE A HEARING WITHIN 14~~
13 ~~DAYS AFTER THE FILING OF A PETITION UNDER PARAGRAPH (1) OF THIS~~
14 ~~SUBSECTION.~~

15 ~~(3) (i) AT THE HEARING, THE DISTRICT COURT SHALL~~
16 ~~DETERMINE BY A PREPONDERANCE OF THE EVIDENCE IF THE ANIMAL WAS SUBJECT~~
17 ~~TO CRUELTY IN VIOLATION OF THIS SUBTITLE.~~

18 ~~(ii) 1. IF A PREPONDERANCE OF THE EVIDENCE IS FOUND~~
19 ~~TO EXIST, THE DISTRICT COURT SHALL ORDER, IF REQUESTED BY THE IMPOUNDING~~
20 ~~AGENCY OR OTHER AGENCY CARING FOR THE ANIMAL, THE OWNER OR CUSTODIAN~~
21 ~~TO POST A BOND FOR THE REASONABLE COSTS OF CARE, AS DESCRIBED IN~~
22 ~~SUBSECTION (C)(1) OF THIS SECTION, FOR A 30 DAY PERIOD.~~

23 ~~2. THE DISTRICT COURT SHALL DETERMINE THE~~
24 ~~AMOUNT OF THE BOND BASED ON INFORMATION PROVIDED BY THE IMPOUNDING~~
25 ~~AGENCY OR OTHER AGENCY CARING FOR THE ANIMAL AND MAY NOT BE BASED ON~~
26 ~~THE OWNER'S OR CUSTODIAN'S ABILITY TO PAY THE BOND.~~

27 ~~3. IF A BOND IS POSTED, THE DISTRICT COURT SHALL~~
28 ~~ORDER A NEW BOND IN THE SAME AMOUNT TO BE POSTED EVERY 30 DAYS DURING~~
29 ~~THE PENDENCY OF ANY CRIMINAL TRIAL OR APPEAL RELATED TO THE REMOVAL OF~~
30 ~~THE ANIMAL.~~

31 ~~4. FAILURE TO POST A BOND WITHIN 5 DAYS AFTER THE~~
32 ~~ORIGINAL ORDER DETERMINING THE BOND AMOUNT OR WITHIN 5 DAYS AFTER THE~~
33 ~~EXPIRATION OF EACH APPLICABLE 30 DAY PERIOD SHALL RESULT IN THE~~
34 ~~FORFEITURE OF THE ANIMAL TO THE IMPOUNDING AGENCY.~~

~~5. IF A PREPONDERANCE OF THE EVIDENCE IS NOT FOUND TO EXIST, THE DISTRICT COURT SHALL ORDER THE ANIMAL TO BE RETURNED TO THE OWNER OR CUSTODIAN.~~

~~(C) (1) THE OWNER OR CUSTODIAN OF AN ANIMAL REMOVED UNDER SUBSECTION (C) OR (D) OF THIS SECTION IS LIABLE FOR THE REASONABLE COSTS OF CARING FOR THE ANIMAL FROM THE TIME OF SEIZURE OR REMOVAL UNTIL THE ANIMAL IS FORFEITED TO THE IMPOUNDING AGENCY OR RETURNED TO THE OWNER OR CUSTODIAN, INCLUDING COSTS ASSOCIATED WITH:~~

~~(I) REMOVING THE ANIMAL;~~

~~(II) TRANSPORTING THE ANIMAL FROM THE PLACE OF REMOVAL;~~

~~(III) PROVIDING MEDICAL CARE TO THE ANIMAL;~~

~~(IV) FEEDING THE ANIMAL;~~

~~(V) SHELTERING THE ANIMAL; AND~~

~~(VI) DISPOSING OF THE ANIMAL, IF NECESSARY.~~

~~(2) DURING THE PENDENCY OF ANY CRIMINAL TRIAL OR APPEAL RELATED TO THE REMOVAL OF THE ANIMAL, THE IMPOUNDING AGENCY MAY DRAW FUNDS EQUAL TO THE COSTS OF CARING FOR THE ANIMAL FROM A BOND POSTED IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.~~

~~(3) ON THE FINAL DISPOSITION OF ANY RELATED CHARGE UNDER THIS SUBTITLE, THE UNUSED PORTION OF A BOND POSTED IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION SHALL BE RETURNED TO THE PERSON THAT POSTED THE BOND.~~

~~(4) IF THE OWNER OR CUSTODIAN IS FOUND NOT GUILTY OF ALL RELATED CHARGES UNDER THIS SUBTITLE, THE OWNER OR CUSTODIAN SHALL BE ENTITLED TO A REFUND OF ALL COSTS PAID IN ACCORDANCE WITH THIS SECTION.~~

~~[(f)] (H) This section does not allow AN OFFICER OR AN AUTHORIZED AGENT OF AN IMPOUNDING AGENCY:~~

~~(1) [entry] TO ENTER into a private dwelling UNLESS THERE IS PROBABLE CAUSE TO BELIEVE THAT AN ACT OF ANIMAL CRUELTY IS BEING COMMITTED OR HAS BEEN COMMITTED; or~~

1 ~~(2) [removal of] TO REMOVE a farm animal without the prior~~
2 ~~recommendation of a veterinarian licensed in the State.~~

3 ~~[(g)] (I) In Baltimore County, the Baltimore County Department of Health,~~
4 ~~Division of Animal Control or an organization that the Baltimore County government~~
5 ~~approves shall enforce this section.~~

6 10-604.

7 (a) A person may not:

8 (1) overdrive or overload an animal;

9 (2) deprive an animal of necessary sustenance;

10 (3) inflict unnecessary suffering or pain on an animal;

11 (4) cause, procure, or authorize an act prohibited under item (1), (2), or (3)
12 of this subsection; or

13 (5) if the person has charge or custody of an animal, as owner or otherwise,
14 unnecessarily fail to provide the animal with:

15 (i) nutritious food in sufficient quantity;

16 (ii) necessary veterinary care;

17 (iii) proper drink;

18 (iv) proper air;

19 (v) proper space;

20 (vi) proper shelter; or

21 (vii) proper protection from the weather.

22 (b) (1) A person who violates this section is guilty of a misdemeanor and on
23 conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000
24 or both.

25 (2) As a condition of sentencing, the court may order a defendant convicted
26 of violating this section to:

27 (I) participate in and pay for psychological counseling; AND

1 **(II) PAY, IN ADDITION TO ANY OTHER FINES AND COSTS, ALL**
2 **REASONABLE COSTS INCURRED IN REMOVING, HOUSING, TREATING, OR**
3 **EUTHANIZING AN ANIMAL CONFISCATED FROM THE DEFENDANT.**

4 (3) As a condition of probation, the court may prohibit a defendant from
5 owning, possessing, or residing with an animal.

6 10-606.

7 (a) A person may not:

8 (1) intentionally:

9 (i) mutilate;

10 (ii) torture;

11 (iii) cruelly beat; or

12 (iv) cruelly kill an animal;

13 (2) cause, procure, or authorize an act prohibited under item (1) of this
14 subsection; or

15 (3) except in the case of self-defense, intentionally inflict bodily harm,
16 permanent disability, or death on an animal owned or used by a law enforcement unit.

17 (b) (1) A person who violates this section is guilty of the felony of aggravated
18 cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a
19 fine not exceeding \$5,000 or both.

20 (2) As a condition of sentencing, the court may:

21 (i) order a defendant convicted of violating this section to:

22 **1. participate in and pay for psychological counseling; AND**

23 **2. PAY, IN ADDITION TO ANY OTHER FINES AND COSTS,**
24 **ALL REASONABLE COSTS INCURRED IN REMOVING, HOUSING, TREATING, OR**
25 **EUTHANIZING AN ANIMAL CONFISCATED FROM THE DEFENDANT; and**

26 (ii) prohibit a defendant from owning, possessing, or residing with
27 an animal for a specified period of time.

28 10-607.

1 (a) In this section, “baiting” means using a dog to train a fighting dog or to test
2 the fighting or killing instinct of another dog.

3 (b) A person may not:

4 (1) use or allow a dog to be used in a dogfight or for baiting;

5 (2) arrange or conduct a dogfight;

6 (3) possess, own, sell, transport, or train a dog with the intent to use the
7 dog in a dogfight or for baiting; or

8 (4) knowingly allow premises under the person’s ownership, charge, or
9 control to be used to conduct a dogfight or for baiting.

10 (c) (1) A person who violates this section is guilty of the felony of aggravated
11 cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a
12 fine not exceeding \$5,000 or both.

13 (2) As a condition of sentencing, the court may:

14 (i) order a defendant convicted of violating this section to:

15 1. participate in and pay for psychological counseling; AND

16 2. PAY, IN ADDITION TO ANY OTHER FINES AND COSTS,
17 ALL REASONABLE COSTS INCURRED IN REMOVING, HOUSING, TREATING, OR
18 EUTHANIZING AN ANIMAL CONFISCATED FROM THE DEFENDANT; and

19 (ii) prohibit a defendant from owning, possessing, or residing with
20 an animal for a specified period of time.

21 10-608.

22 (a) (1) In this section, “implement of cockfighting” means any implement or
23 device intended or designed:

24 (i) to enhance the fighting ability of a fowl, cock, or other bird; or

25 (ii) for use in a deliberately conducted event that uses a fowl, cock,
26 or other bird to fight with another fowl, cock, or other bird.

27 (2) “Implement of cockfighting” includes:

28 (i) a gaff;

29 (ii) a slasher;

1 (iii) a postiza;

2 (iv) a sparring muff; and

3 (v) any other sharp implement designed to be attached in place of
4 the natural spur of a gamecock or other fighting bird.

5 (b) A person may not:

6 (1) use or allow the use of a fowl, cock, or other bird to fight with another
7 animal;

8 (2) possess, with the intent to unlawfully use, an implement of
9 cockfighting;

10 (3) arrange or conduct a fight in which a fowl, cock, or other bird fights with
11 another fowl, cock, or other bird;

12 (4) possess, own, sell, transport, or train a fowl, cock, or other bird with the
13 intent to use the fowl, cock, or other bird in a cockfight; or

14 (5) knowingly allow premises under the person's ownership, charge, or
15 control to be used to conduct a fight in which a fowl, cock, or other bird fights with another
16 fowl, cock, or other bird.

17 (c) (1) A person who violates this section is guilty of the felony of aggravated
18 cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a
19 fine not exceeding \$5,000 or both.

20 (2) As a condition of sentencing, the court may:

21 (i) order a defendant convicted of violating this section to:

22 **1. participate in and pay for psychological counseling; AND**

23 **2. PAY, IN ADDITION TO ANY OTHER FINES AND COSTS,**
24 **ALL REASONABLE COSTS INCURRED IN REMOVING, HOUSING, TREATING, OR**
25 **EUTHANIZING AN ANIMAL CONFISCATED FROM THE DEFENDANT; and**

26 (ii) prohibit a defendant from owning, possessing, or residing with
27 an animal for a specified period of time.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2019.