

Chapter 180

(House Bill 1062)

AN ACT concerning

Criminal Law – Animal Cruelty – Petition for Costs for Care of Seized Animal

FOR the purpose of establishing procedures to authorize a certain officer or agent of a humane society or a police officer or certain public official to file a petition to recover reasonable costs of care from the owner or custodian of a certain seized animal; and generally relating to animal cruelty.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 10–615
Annotated Code of Maryland
(2021 Replacement Volume and 2021 Supplement)

BY adding to
Article – Criminal Law
Section 10–615.1
Annotated Code of Maryland
(2021 Replacement Volume and 2021 Supplement)

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) If an owner or custodian of an animal is convicted of an act of animal cruelty, the court may order the [removal] **SEIZURE** of the animal or any other animal at the time of conviction for the protection of the animal.

(b) (1) 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.

(2) (i) An animal that a medical and scientific research facility possesses may be [removed] **SEIZED** 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.

(c) (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, 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] SEIZE** the animal if **[removal] SEIZURE** 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 **[removes] SEIZES** an animal under subsection (c) of this section shall notify the animal's owner or custodian **BY PERSONAL SERVICE OR CERTIFIED MAIL WITHIN 24 HOURS** of:

(i) the **[removal] SEIZURE**; ~~and~~

(ii) any administrative remedies that may be available to the owner or custodian; **AND**

(III) IF AN ADMINISTRATIVE REMEDY IS NOT AVAILABLE, THE RIGHT TO PETITION THE COURT FOR THE RETURN OF THE ANIMAL UNDER PARAGRAPH (2) OF THIS SUBSECTION, INCLUDING INSTRUCTIONS DESCRIBING HOW TO PETITION THE COURT FOR THE RETURN OF THE ANIMAL.

(2) 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] SEIZURE** occurred within 10 days after the **[removal] SEIZURE**.

(e) An animal is considered a stray **AND WILL BE FORFEITED TO A PERSON WHO IS AUTHORIZED TO SEIZE THE ANIMAL** if:

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

(2) the owner or custodian of the animal is unknown and cannot be ascertained by reasonable effort for [20 days] **72 HOURS** to determine the owner or custodian.

(f) This section does not allow:

(1) entry into a private dwelling; or

(2) [removal of a farm animal] without the prior recommendation of a veterinarian licensed in the State, **SEIZURE OF:**

(I) LIVESTOCK, AS DEFINED BY § 1-101 OF THE AGRICULTURE ARTICLE;

(II) POULTRY, AS DEFINED BY § 1-101 OF THE AGRICULTURE ARTICLE; OR

(III) A DOG THAT IS ACTIVELY ENGAGED IN LIVESTOCK HERDING OR GUARDING.

(g) In Baltimore County, the Baltimore County Department of Health, Division of Animal Control or an organization that the Baltimore County government approves shall enforce this section.

10-615.1.

(A) IN THIS SECTION, “OWNER” MEANS A PERSON WHO CAN PROVE LEGAL TITLE TO OR OWNERSHIP OF AN ANIMAL AT ISSUE ON THE DATE OF THE SEIZURE.

(B) (1) (I) IF AN ANIMAL IS SEIZED UNDER § 10-615 OF THIS SUBTITLE AND THE OWNER HAS FILED A PETITION FOR RETURN OF THE ANIMAL, AN OFFICER OR AUTHORIZED AGENT OF A HUMANE SOCIETY, OR A POLICE OFFICER OR ANY OTHER PUBLIC OFFICIAL REQUIRED TO PROTECT ANIMALS WHO REPRESENTS THE SEIZING PERSON, MAY FILE A PETITION TO JOIN A PROCEEDING CONDUCTED UNDER § 10-615(D)(2) OF THIS SUBTITLE FOR THE REASONABLE COSTS OF CARING FOR THE ANIMAL, INCLUDING THE PROVISION OF FOOD, WATER, SHELTER, AND MEDICAL CARE.

(II) IF LIVESTOCK, AS DEFINED BY § 1-101 OF THE AGRICULTURE ARTICLE, IS SEIZED UNDER § 10-615 OF THIS SUBTITLE AND THE OWNER HAS NOT FILED A PETITION FOR RETURN OF THE ANIMAL, AN OFFICER OR AUTHORIZED AGENT OF A HUMANE SOCIETY, OR A POLICE OFFICER OR ANY OTHER PUBLIC OFFICIAL REQUIRED TO PROTECT ANIMALS WHO REPRESENTS THE SEIZING PERSON, SHALL FILE A PETITION FOR THE CONTINUED POSSESSION OF THE

LIVESTOCK AND REASONABLE COSTS FOR CARING FOR THE LIVESTOCK, INCLUDING THE PROVISION OF FOOD, WATER, SHELTER, AND MEDICAL CARE.

(2) A PETITION FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE FILED NOT LESS THAN 10 DAYS BUT NOT MORE THAN 30 DAYS AFTER THE SEIZURE OF AN ANIMAL UNDER § 10-615 OF THIS SUBTITLE.

(3) WITHIN 7 DAYS AFTER FILING A PETITION UNDER THIS SUBSECTION, THE PETITIONER SHALL SERVE A COPY OF THE PETITION ON THE OWNER OR CUSTODIAN OF THE ANIMAL BY PERSONAL SERVICE OR BY REGISTERED MAIL TO:

(I) THE OWNER'S OR CUSTODIAN'S MAILING ADDRESS;

(II) THE PLACE OF BUSINESS OF THE OWNER'S OR CUSTODIAN'S COUNSEL OF RECORD; OR

(III) IF THE OWNER OR CUSTODIAN IS DETAINED PRETRIAL, THE DETENTION FACILITY WHERE THE OWNER OR CUSTODIAN IS LOCATED.

(C) ON RECEIPT OF A PETITION FILED UNDER § 10-615(D)(2) OF THIS SUBTITLE OR SUBSECTION (B)(1) OF THIS SECTION, THE COURT SHALL SET A DATE FOR A HEARING TO DETERMINE:

(1) WHETHER THE SEIZURE OF THE ANIMAL WAS WARRANTED;

(2) WHETHER THE CONTINUED POSSESSION BY THE PETITIONER IS WARRANTED;

(3) THE RESPONSIBILITY OF THE OWNER OR CUSTODIAN FOR THE REASONABLE COSTS OF CARE FOR THE SEIZED ANIMAL; AND

(4) WHETHER THE OWNER OR CUSTODIAN MAY BE ALLOWED TO OWN OR POSSESS A NEW ANIMAL DURING THE PENDING PROCEEDING AND UNTIL THE DISPOSITION OF ANY CRIMINAL CHARGES RELATING TO THE SEIZURE.

(D) (1) A HEARING UNDER SUBSECTION (C) OF THIS SECTION SHALL BE SCHEDULED NOT LESS THAN 14 DAYS BUT NOT MORE THAN 21 DAYS FROM THE SERVICE OF THE PETITION.

(2) WITHIN 7 DAYS AFTER THE SCHEDULING OF THE HEARING DATE, A PETITIONER SHALL SERVE NOTICE OF THE HEARING DATE ON THE OWNER OR

CUSTODIAN OF THE SEIZED ANIMAL IN THE MANNER DESCRIBED UNDER SUBSECTION (B)(3) OF THIS SECTION.

(E) AT THE HEARING UNDER SUBSECTION (C) OF THIS SECTION, THE PETITIONER SHALL DEMONSTRATE BY A PREPONDERANCE OF THE EVIDENCE:

(1) THE AMOUNT OF REASONABLE COSTS OF CARE FOR THE SEIZED ANIMAL;

(2) THAT THE SEIZURE OF THE ANIMAL WAS WARRANTED; AND

(3) THAT THE CONTINUED POSSESSION OF THE ANIMAL BY THE PETITIONER IS WARRANTED.

(F) DURING A HEARING UNDER SUBSECTION (C) OF THIS SECTION, THE OWNER OR CUSTODIAN OF THE SEIZED ANIMAL SHALL HAVE THE OPPORTUNITY TO:

(1) OBJECT TO THE EVIDENCE PRESENTED BY THE PETITIONER; AND

(2) REQUEST AN ALTERNATIVE DISPOSITION OF THE ANIMAL.

(G) (1) (I) NOT LATER THAN 5 DAYS AFTER THE ~~COMMENCEMENT~~ CONCLUSION OF A HEARING UNDER § 10-615(D)(2) OF THIS SUBTITLE OR SUBSECTION (B)(1) OF THIS SECTION, THE COURT SHALL ISSUE AN ORDER GRANTING OR DENYING THE PETITIONS.

(II) REASONABLE COSTS OF CARE FOR A SEIZED ANIMAL SHALL BE LIMITED TO \$15 PER DAY PER ANIMAL, IN ADDITION TO NECESSARY MEDICAL CARE, AS DETERMINED BY A LICENSED VETERINARIAN AND DOCUMENTED BY INVOICES.

(III) NECESSARY MEDICAL CARE MAY NOT EXCEED \$50 PER DAY PER ANIMAL.

(IV) IF THE COURT AWARDS PAYMENT OF THE REASONABLE COST OF CARE OF THE SEIZED ANIMAL TO THE PETITIONER, THE COURT SHALL:

1. ORDER THE OWNER OR CUSTODIAN OF THE SEIZED ANIMAL TO PAY ANY FILING FEES PAID BY THE PETITIONER TO FILE THE PETITION UNDER SUBSECTION (B) OF THIS SECTION AND THE AMOUNT OF REASONABLE COSTS OF CARE; AND

2. INFORM THE OWNER OR CUSTODIAN OF THE ANIMAL OF THE RIGHT TO PETITION FOR AN ADJUSTMENT OF THE AMOUNT OF COSTS FOR CARE UNDER PARAGRAPH (5) OF THIS SUBSECTION.

(v) IF THE COURT FINDS THAT THE SEIZURE OF AN ANIMAL WAS WARRANTED, THE COURT MAY PROHIBIT THE OWNER OR CUSTODIAN OF THE ANIMAL FROM OWNING OR POSSESSING A NEW ANIMAL UNTIL THE CONCLUSION OF ANY CRIMINAL PROCEEDINGS RELATED TO THE SEIZURE OF THE ANIMAL.

(2) (i) THE COURT ORDER FOR FILING FEES AND COSTS OF CARE SHALL INCLUDE A SCHEDULE OF MONTHLY PAYMENTS TO BE PAID BY THE OWNER OR CUSTODIAN TO THE CLERK OF THE COURT BEGINNING 30 DAYS AFTER THE INITIAL PAYMENT DESIGNATED IN THE ORDER.

(ii) THE PETITIONER SHALL BE ELIGIBLE TO DRAW FUNDS HELD BY THE CLERK OF THE COURT TO REIMBURSE ITS ACTUAL COSTS INCURRED FOR CARE OF THE ANIMAL.

(iii) PAYMENTS SHALL CONTINUE UNTIL TERMINATION UNDER SUBSECTION (i) OF THIS SECTION.

(iv) UNLESS THE PROCEEDING INVOLVES NOT MORE THAN TWO ANIMALS AND THE ONLY CHARGES ARE NEGLECT, THE ABILITY TO PAY BY THE OWNER OR CUSTODIAN MAY NOT AFFECT THE COURT'S DETERMINATION AS TO THE AMOUNT OF THE REASONABLE COSTS OF CARE.

(3) (i) NOT LATER THAN 14 DAYS AFTER SERVICE OF THE COURT ORDER, THE OWNER OR CUSTODIAN SHALL BEGIN TO MAKE PAYMENTS TO THE CLERK OF THE COURT IN ACCORDANCE WITH THE COURT ORDER.

(ii) THE OWNER OR CUSTODIAN SHALL CONTINUE TO MAKE PAYMENTS AS REQUIRED BY THE COURT ORDER UNTIL TERMINATION UNDER SUBSECTION (i) OF THIS SECTION.

(4) IF AN OWNER OR A CUSTODIAN FAILS TO TIMELY PAY ANY OF THE AMOUNTS ORDERED WITHIN 30 CALENDAR DAYS:

(i) THE SEIZED ANIMAL FOR WHICH REASONABLE COSTS OF CARE WERE ORDERED SHALL BE AUTOMATICALLY FORFEITED, BY OPERATION OF LAW, TO THE PETITIONER; AND

(ii) THE PETITIONER SHALL OBTAIN ALL RIGHTS AND PRIVILEGES IN AND OVER THE ANIMAL.

(5) (I) THE COURT, ON MOTION BY A PETITIONER OR THE OWNER OR CUSTODIAN, AND AFTER NOTICE AND A HEARING CONSISTENT WITH THIS SECTION, MAY:

1. DETERMINE WHETHER THE CONTINUED POSSESSION OF THE ANIMAL BY THE PETITIONER IS WARRANTED; OR

2. ADJUST THE AMOUNT OF COSTS FOR CARE.

(II) PAYMENTS BY THE OWNER OR CUSTODIAN SHALL BE SUSPENDED UNTIL THE MOTION IS DECIDED.

(H) (1) (I) PAYMENT FOR REASONABLE COSTS OF CARE BY THE OWNER OR CUSTODIAN OF THE SEIZED ANIMAL DOES NOT PREVENT THE PETITIONER FROM PROVIDING NECESSARY MEDICAL CARE, INCLUDING EUTHANIZING THE SEIZED ANIMAL.

(II) THE PETITIONER MAY EUTHANIZE A SEIZED ANIMAL IF THE PETITIONER OBTAINS A WRITTEN OPINION FROM A LOCAL LICENSED VETERINARIAN WHO STATES IT IS NECESSARY TO ALLEVIATE THE ANIMAL'S SUFFERING.

(III) UNLESS IMMEDIATE EUTHANASIA IS CONSIDERED NECESSARY BY A VETERINARIAN UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, REASONABLE NOTICE SHALL BE PROVIDED TO THE OWNER OR CUSTODIAN BEFORE THE ANIMAL IS EUTHANIZED.

(2) PAYMENT OF REASONABLE COSTS OF CARE UNDER SUBSECTION (G) OF THIS SECTION MAY NOT PREVENT THE PETITIONER FROM TRANSFERRING THE SEIZED ANIMAL TO ANOTHER FACILITY OR CARETAKER IF THE COURT IS NOTIFIED OF THE TRANSFER IN A TIMELY MANNER.

(I) (1) A COURT ORDER FOR COSTS SHALL TERMINATE IF:

(I) THE OWNER OF THE ANIMAL SURRENDERS ALL RIGHTS TO THE ANIMAL;

(II) THE ANIMAL IS FORFEITED TO THE PETITIONER UNDER § 10-615(E) OF THIS SUBTITLE OR SUBSECTION (G)(4) OR (L) OF THIS SECTION; OR

(III) THE ANIMAL DIES OR IS EUTHANIZED.

(2) AFTER TERMINATION OF THE ORDER, ANY UNUSED FUNDS RETAINED BY THE CLERK OF THE COURT SHALL BE RETURNED TO THE OWNER OR CUSTODIAN OF THE ANIMAL.

(J) A PETITIONER SHALL BE IMMUNE FROM CIVIL LIABILITY FOR DAMAGES ALLEGED BY AN OWNER OR A CUSTODIAN CONCERNING THE CARE PROVIDED BY THE PETITIONER, EXCEPT FOR INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE RESULTING IN THE DEATH OF THE SEIZED ANIMAL.

(K) IF THE OWNER OR CUSTODIAN OF THE SEIZED ANIMAL IS ACQUITTED OF ALL CRIMINAL CHARGES AND IF ALL COSTS ORDERED TO BE PAID UNDER THIS SECTION HAVE BEEN TIMELY PAID, THE OWNER OR CUSTODIAN OF THE ANIMAL IS ENTITLED TO:

(1) TAKE REPOSSESSION OF THE ANIMAL; AND

(2) A RETURN OF ALL REASONABLE COSTS OF CARE PAID BY THE OWNER OR CUSTODIAN.

(L) IF THE OWNER OR CUSTODIAN OF THE SEIZED ANIMAL IS CONVICTED OF ANY CRIMINAL CHARGES BROUGHT IN RELATION TO A SEIZURE UNDER § 10-615 OF THIS SUBTITLE, ANY ANIMALS SEIZED SHALL BE FORFEITED.

(M) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT AN OFFICER OR AUTHORIZED AGENT OF A HUMANE SOCIETY, OR A POLICE OFFICER OR OTHER PUBLIC OFFICIAL REQUIRED TO PROTECT ANIMALS, FROM SEEKING RESTITUTION AS PART OF SENTENCING IF A PERSON DOES NOT SEEK COSTS OF CARE UNDER THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.

Approved by the Governor, April 21, 2022.