



## THE HUMANE SOCIETY OF THE UNITED STATES

March 10, 2021

Judicial Proceedings Committee

SB760

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

**FAVORABLE**

The Humane Society of the United States, on behalf of our members and supporters in Maryland, urge a favorable report on SB760, which clarifies and expedites the legal process to determine the disposition of animals seized in cruelty cases and ensures that the animals' owner – not our taxpayers – cover the costs of caring for the lawfully seized animals. While we are favorable on the bill, we support the package of sponsor amendments, which are discussed in further detail below.

Large-scale cruelty cases, such as puppy mill, dogfighting or hoarding cases, can involve the seizure of dozens or even hundreds of animals. These cases often take months, or even years, to go to trial. Due to gaps in current law, seized animals must remain in temporary care over these long periods of time, resulting in trauma for the animals and significant cost to our agencies and taxpayers.

This committee has been grappling with these issues for years and came close to resolving this problem in 2019. However, the bill that passed in 2019 kept the process as a retroactive procedure that occurs at the judge's discretion at the conclusion of the case. Consequently, the abused animals remain in legal limbo until the outcome of the criminal case and the bill did not provide the structural fix to Maryland's laws that is needed to protect our animals, pet owners, and tax payers.

In the 2017 case, *Daniel Rohrer v. Humane Society of Washington County*, the Maryland Court of Appeals noted the lack of a workable civil procedure to determine the disposition of seized animals. They wrote, "The statute provides no explicit guidance as to the standard by which a petition should be decided, or even who has the burden of proof." Further, they explain, "the District and Circuit Court understandably felt at a loss for what standard to apply to decide the petition, as the statute is not explicit."

The bill before you addresses these concerns by clearly articulating the points at which an owner might forfeit ownership of an animal. Importantly, it also creates a civil hearing procedure, separate from the criminal trial, in which a judge determines whether there is sufficient evidence of animal cruelty to require the owner to pay a bond for the reasonable costs of caring for his/her animal while the criminal case is adjudicated. If the owner fails to post the bond, the animal is relinquished to the seizing authority so that the animal may be adopted into a loving home. The owner can voluntarily relinquish the animal at any time and be absolved of financial responsibility.

The bill includes critical protections for owners. First, it allows the owner to challenge the legality of the animals' seizure and the reasonableness of the bond requested. As amended, it also requires the seizing

agency to demonstrate by a preponderance of the evidence that the animals were lawfully seized, so that no owner will unfairly be required to pay costs of care. And as amended, it also ensures that an owner who is acquitted will be repaid for any costs of care that they expended.

In advance of this hearing there has been considerable stakeholder outreach that is reflected in the package of sponsor amendments. This includes discussions with the Professional Animal Workers of Maryland, the shelter staff most directly impacted by this legislation; representatives of the Maryland Horse Council, who requested the elimination of livestock from the bill; and legislators on this committee, who noted the importance of protecting pet owners who may face financial difficulties making these payments. The sponsor amendments address concerns raised by these parties and in summary do the following:

- Brings the proposed legislation, which was originally based on Pennsylvania's model, into compliance with the current Maryland process by requiring the custodian or owner to file a petition, not the seizing agency, and makes other conforming clarifications;
- Exempts livestock from the cost of care provisions, except for any animals used for fighting such as cock fighting; and
- Creates provisions to ensure that owners who are later acquitted will not lose their animals.

More than 40 states in the country have laws to address the cost of caring for animals seized in cruelty cases. It is unacceptable for Maryland, which has an exemplary record on animal protection, to be in a minority of states that has no robust process to address the cost of caring for animals seized in cruelty cases. Someone has to pay the cost of caring for neglected and abused animals and, with effective due process protections, that cost should fairly be the responsibility of the owner – not the taxpayer.

This bill's passage is long overdue. It offers a fair and comprehensive solution to the issues discussed above and employs a procedure that has been proven successful in more than 40 states. For these reasons, we respectfully urge a favorable report on SB760.