

Cost of Animal Care Financial Impact Information.p

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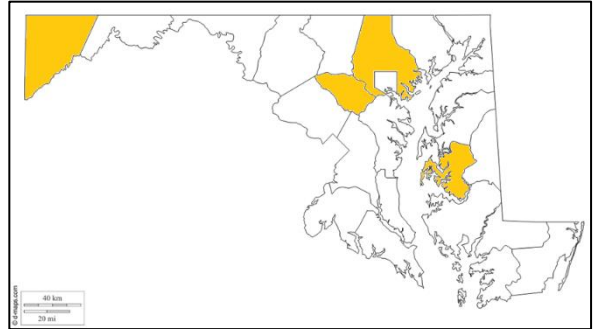
Position: FAV

Cost of Animal Care: Case Studies of Financial Impact

Cost of animal care legislation is smart, reasonable legislation that puts the cost of caring for animals where it belongs - with the person who is responsible. These are just a few examples of the cases that occurred in 2019-2020 where taxpayers have had to foot the costs of caring for seized animals:

Howard County:

- Hoarding case; 60 animals including dogs, cats, birds, and exotic species
- Animals have been in custody for 2 years
- Estimated cost of care: **over \$500,000 and counting**



Talbot County:

- Neglect case; 1 dog seized that needed extensive vet care
- Held for 5 months before owner agreed to forfeit
- Estimated cost of care: over **\$1,800**

Baltimore County:

- Hoarding case; 154 animals seized including dogs, cats, and birds
- Animals held for just over a year
- Estimated cost of care: over **\$186,000**

Garrett County:

- Neglect case; 12 dogs seized
- Held for 2 months
- Estimated cost of care: **\$7,000**



For more information contact Jennifer Bevan-Dangel, Maryland State Director
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HB1080_SB760 Delineated Amendments.pdf

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Position: FAV

D3, E2, E4

11r1217
CF 11r2458

Bill No.: _____

Drafted by: Joyce

Requested: _____

Committee: _____

By: **Delegate Moon**

A BILL ENTITLED

AN ACT concerning

Criminal Law – Animal Cruelty – Petition for Costs of Animal Seizure

FOR the purpose of authorizing, if an animal is seized under a certain provision of law, a certain individual to file a certain petition for certain costs including costs related to the care for the seized animal to be paid by a certain individual; prohibiting the filing of a certain petition after a certain date; providing for service of the petition; requiring the court to set and hold a certain hearing; requiring the petitioner to present certain evidence at the hearing; authorizing certain objections to the hearing; requiring the court to issue a certain order within a certain period; providing that a certain order include certain fees and costs; providing for the payment of a certain costs order; establishing that a certain payment does not prevent the provision of certain care or transfer of a seized animal; providing that certain costs may not be reimbursed under certain circumstances; providing for the termination of a certain order; providing for the remittance of certain costs; providing that a certain owner has the right to repossession of a certain animal and to a return of certain costs under certain circumstances; providing that a certain person may examine a certain seized animal for certain purposes under certain conditions; providing a certain petitioner with immunity from certain liability; providing for the application of the Act; defining certain terms; and generally relating to animal cruelty.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

1r1217

BY repealing and reenacting, without amendments,
Article - Criminal Law
Section 10-615
Annotated Code of Maryland
(2012 Replacement Volume and 2020 Supplement)

BY adding to
Article - Criminal Law
Section 10-615.1
Annotated Code of Maryland
(2012 Replacement Volume and 2020 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 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 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 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 removes an animal under subsection (c) of this section shall notify the animal's owner or custodian of:

(i) the removal; and

(ii) any administrative remedies that may be available to the owner or custodian.

(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 occurred within 10 days after the removal.

(e) An animal is considered a stray AND WILL BE FORFEITED AS A MATTER OF LAW TO THE SEIZING AGENCY 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; or

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

(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) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "COSTS ORDER" MEANS A COURT ORDER TO PAY FILING FEES AND REASONABLE COSTS OF CARE.

(3) "DEFENDANT" MEANS A PERSON CHARGED WITH A VIOLATION OF THIS SUBTITLE, OR ANY OTHER STATE OR LOCAL ANIMAL CRUELTY LAW.

(4) ~~"NORMAL AGRICULTURAL OPERATION" MEANS THE ACTIVITIES, PRACTICES, EQUIPMENT AND PROCEDURES THAT FARMERS ADOPT, USE OR ENGAGE IN THE PRODUCTION AND PREPARATION FOR MARKET OF POULTRY, LIVESTOCK AND THEIR PRODUCTS AND IN THE PRODUCTION, HARVESTING AND PREPARATION FOR MARKET OR USE OF AGRICULTURAL, AGRONOMIC, HORTICULTURAL, SILVICULTURAL AND AQUACULTURAL CROPS AND COMMODITIES.~~

(5) "OWNER" MEANS A PERSON WHO CAN PROVE LEGAL TITLE TO OR OWNERSHIP OF AN ANIMAL AT ISSUE ON THE DATE OF THE SEIZURE.

(6) "PETITION" MEANS A PETITION TO PREVENT FORFEITURE OF FOR REASONABLE COSTS OF CARE FOR ANY ANIMAL SEIZED UNDER § 10-615 OF THIS SUBTITLE.

(6) "PETITIONER" A PERSON OR ENTITY THAT FILES A PETITION UNDER THIS SUBTITLE.

(7) (i) "REASONABLE COSTS OF CARE" MEANS THE REASONABLE COSTS OF CARING FOR SEIZED ANIMALS, INCLUDING THE PROVISION OF FOOD, WATER, SHELTER AND MEDICAL CARE, BEGINNING AT THE DATE OF THE SEIZURE AND CONTINUING UNTIL THE EARLIER OF ONE OF THE FOLLOWING:

1. ~~AT LEAST 30 DAYS FOLLOWING A HEARING ON A PETITION FOR COSTS OF CARE;~~

21. THE SEIZED ANIMALS ARE NO LONGER UNDER THE LEGAL CONTROL OF THE ~~PETITIONER~~ SEIZING AGENCY;

2. THE ANIMALS ARE FORFEITED TO THE SEIZING AGENCY AS A MATTER OF LAW; OR

3. THE OWNER ~~AND OR CUSTODIAN DEFENDANT~~ HAVE RELINQUISHED ALL INTERESTS IN THE SEIZED ANIMALS.

(ii) REASONABLE COSTS OF CARE 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.

(b) (1) IF AN ANIMAL IS SEIZED UNDER § 10-615 OF THIS SUBTITLE, AND THE OWNER FILES A PETITION FOR RETURN OF THE SEIZED ANIMAL WITHIN 10 DAYS OF REMOVAL, AS PROVIDED BY SECTION § 10-615 (d)((2) OF THIS ARTICLE, A HEARING SHALL BE HELD IN THE A District Court of the county in which the removal occurred~~PETITION MAY BE FILED, WITH THE COURT IN THE COUNTY WHERE RELATED CRIMINAL CHARGES HAVE BEEN FILED, BY:~~

(2) IF THE OWNER OR CUSTODIAN DOES NOT PETITION WITHIN 10 DAYS AS PROVIDED ABOVE, THE ANIMALS WILL BE FORFEITED TO THE SEIZING AGENCY.

~~(i) AN OFFICER OR AUTHORIZED AGENT OF A HUMANE SOCIETY, OR~~

~~(ii) A POLICE OFFICER OR OTHER PUBLIC OFFICIAL REQUIRED TO PROTECT ANIMALS.~~

~~(2) A PETITION MAY NOT BE FILED LATER THAN SEVEN DAYS AFTER THE ENTRY OF FINAL JUDGMENT ON THE RELATED CRIMINAL CHARGE FOR A VIOLATION OF THIS SUBTITLE.~~

~~(3) NOT LATER THAN SEVEN DAYS AFTER FILING A PETITION UNDER THIS SUBSECTION, THE PETITIONER SHALL SERVE THE PETITION ON THE DEFENDANT BY PERSONAL SERVICE OR BY REGISTERED MAIL TO:~~

~~(i) THE DEFENDANT'S MAILING ADDRESS;~~

~~(ii) THE PLACE OF BUSINESS OF THE DEFENDANT'S COUNSEL; OR~~

~~(iii) THE DETENTION FACILITY WHERE THE DEFENDANT IS INCARCERATED.~~

~~(4) THE PETITIONER SHALL SERVE THE PETITION ON THE OWNER OF A SEIZED ANIMAL IF:~~

~~(i) THE PETITIONER IS AWARE THAT THE DEFENDANT IS NOT THE OWNER OF THE SEIZED ANIMAL; AND~~

~~(ii) THE PETITIONER IS AWARE OF THE OWNER'S LOCATION.~~

(C) ON RECEIPT OF A PETITION, THE COURT SHALL SET A DATE FOR A HEARING TO DETERMINE THE RESPONSIBILITY OF A DEFENDANT FOR REASONABLE COSTS OF CARE TO PREVENT FORFEITURE OF THE SEIZED ANIMALS.

(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 DAY THE ANIMALS WERE SEIZED. ~~SERVICE OF THE PETITION.~~

~~(2) THE PETITIONER SHALL SERVE NOTICE OF THE HEARING DATE ON THE DEFENDANT AND, IF REQUIRED TO BE SERVED UNDER SUBSECTION (B)(4) OF THIS SECTION, THE OWNER.~~

(E) AT THE HEARING, THE PETITIONER-SEIZING AGENCY SHALL PRESENT EVIDENCE THAT DEMONSTRATES:

(1) THE AMOUNT OF REASONABLE COSTS OF CARE FOR THE SEIZED ANIMAL FOR 30 DAYS; AND

(2) THAT THE SEIZURE WAS WARRANTED; ~~AND~~

(3) ~~IF THE OWNER IS REQUIRED TO BE SERVED UNDER SUBSECTION (B)(4) OF THIS SECTION, THAT A COPY OF THE PETITION HAS BEEN MAILED TO THE OWNER'S LAST KNOWN ADDRESS.~~

(F) ~~THE DEFENDANT AND, IF REQUIRED TO BE SERVED UNDER SUBSECTION (B)(4), THE PETITIONER OWNER~~ SHALL HAVE THE OPPORTUNITY AT THE HEARING TO OBJECT TO ~~THE PETITION EVIDENCE PRESENTED BY THE SEIZING AGENCY.~~

(G) (1) (i) NOT LATER THAN FIVE DAYS AFTER THE COMMENCEMENT OF THE HEARING, THE COURT SHALL ISSUE AN ORDER ~~ON GRANTING OR DENYING~~ THE PETITION, INCLUDING THE FOLLOWING:-

~~(H) IF THE COURT IF THE SEIZURE IS DETERMINED TO BE WARRANTED BASED ON THE PREPONDERANCE OF THE EVIDENCE, THE COURT SHALL GRANTS THE PETITION, THE ORDER SHALL INCLUDE ORDER~~ payment by the defendant into the clerk of the court an amount sufficient to cover all reasonable costs of care, as determined by the court, for a period beginning as of the date of seizure and ending 30 days after such date ~~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, BOTH OF WHICH SHALL BE PAID BY THE DEFENDANT.~~

~~(I) IN THE EVENT THE SEIZURE IS DETERMINED BASED ON THE PREPONDERANCE OF THE EVIDENCE BY THE COURT TO BE UNWARRANTED, THE SEIZED ANIMALS SHALL BE RETURNED TO THE OWNER.~~

(2) (i) THE COSTS ORDER SHALL INCLUDE A SCHEDULE OF MONTHLY PAYMENTS FOR COSTS OF CARE TO BE PAID BY THE DEFENDANT BEGINNING 30 DAYS AFTER THE INITIAL PAYMENT DESIGNATED IN THE ORDER, AND EVERY 30 DAYS THEREAFTER.

(ii) PAYMENTS SHALL CONTINUE UNTIL TERMINATION UNDER SUBSECTION (J) OF THIS SECTION.

(iii) THE DEFENDANT'S ABILITY TO PAY SHALL NOT AFFECT THE COURT'S DETERMINATION AS TO THE AMOUNT OF THE REASONABLE COSTS OF CARE.

(A) UNLESS THE CASE INVOLVES TWO (2) OR FEWER ANIMALS AND ONLY INCLUDES CHARGES OF NEGLIGENCE.

(IV) The seizing agency, ~~or agency caring for the animal on its behalf,~~ shall be eligible to draw funds from the clerk of the court ~~(?)~~ to reimburse its actual costs incurred caring for the animal.

(3) (I) NOT LATER THAN SEVEN DAYS AFTER SERVICE OF THE COSTS ORDER, THE DEFENDANT SHALL MAKE PAYMENTS ~~TO THE PETITIONER TO THE CLERK OF THE COURT (?)~~ IN ACCORDANCE WITH THE COSTS ORDER.

(II) THE DEFENDANT SHALL MAKE PAYMENTS THEREAFTER UNDER THE COSTS ORDER UNTIL TERMINATION UNDER SUBSECTION (J) OF THIS SECTION.

(4) IF A DEFENDANT SUBJECT TO A COSTS ORDER FAILS TO TIMELY PAY ANY OF THE AMOUNTS ORDERED; such that, funds are not deposited within 75 days as required by the order.;

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

(II) THE SEIZING AGENCY PETITIONER SHALL OBTAIN ALL RIGHTS AND PRIVILEGES IN AND OVER THE ANIMAL.

(5) (I) IF A CUSTODIAN DOES NOT PETITION WITHIN 10 DAYS BUT IS NOT THE OWNER, THEN THE SEIZING AGENCY MUST MAKE A GOOD FAITH EFFORT TO IDENTIFY THE OWNER AND NOTIFY THEM THAT THEIR ANIMALS HAVE BEEN SEIZED. THE OWNER WILL HAVE 10 DAYS AFTER RECEIVING NOTICE TO FILE THEIR OWN PETITION.

~~(II) IF ANY OWNER WAS REQUIRED TO BE SERVED UNDER SUBSECTION (B)(4) OF THIS SECTION AND THE DEFENDANT IF THE CUSTODIAN WAS ORDERED TO PAY COSTS UNDER SUBSECTION (G) OF THIS SECTION, THE PETITIONER-CUSTODIAN SHALL PROVIDE THE OWNER WITH NOTICE OF THE NONPAYMENT BY CERTIFIED MAIL AT THE OWNER'S LAST KNOWN ADDRESS.~~

(II) THE NOTICE SHALL INFORM THE OWNER THAT THE FORFEITURE DESCRIBED IN THIS SUBSECTION SHALL OCCUR WITHOUT FURTHER NOTICE IF THE PAYMENT DEFAULT IS NOT REMEDIED IN FULL WITHIN TEN DAYS OF THE MAILING OF THE NOTICE.

(III) IF THE OWNER PAYS THE AMOUNT PAST DUE, THE OBLIGATION TO PAY COSTS UNDER SUBSECTION (G) OF THIS SECTION SHALL BE CONSIDERED A JOINT OBLIGATION OF THE ~~DEFENDANT-CUSTODIAN~~ AND THE OWNER, AND NO FURTHER NOTICE OF ANY OTHER DEFAULT SHALL BE REQUIRED PRIOR TO FORFEITURE.

(6) THE COURT, ON MOTION BY A PETITIONER OR RESPONDENT AND AFTER A HEARING CONSISTENT WITH THIS SECTION, MAY ADJUST THE AMOUNT OF REASONABLE COSTS OF CARE.

(H) (1) (I) PAYMENT OF REASONABLE COSTS OF CARE UNDER SUBSECTION (G) OF THIS SECTION SHALL NOT PREVENT THE ~~SEIZING AGENCY PETITIONER~~ FROM PROVIDING NECESSARY MEDICAL CARE, INCLUDING EUTHANIZING ANY SEIZED ANIMAL.

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

(2) PAYMENT OF REASONABLE COSTS OF CARE UNDER SUBSECTION (G) OF THIS SECTION SHALL NOT PREVENT THE ~~SEIZING AGENCY PETITIONER~~ FROM TRANSFERRING ~~A SEIZED ANIMAL TO AN AGENCY FOR THE PURPOSE OF ANIMAL CARE. ANOTHER FACILITY OR CARETAKER A SEIZED ANIMAL IF:~~

(I) ~~THE COURT ORDERS THE TRANSFER; OR~~

~~(II) THE OWNER OF THE ANIMAL SURRENDERS ALL RIGHTS TO THE ANIMAL.~~

(I) ~~A PETITIONER MAY NOT BE REIMBURSED FOR COSTS OF CARE FOR WHICH THE DEFENDANT OR OWNER PROVIDES MEDICAL RECORDS, SIGNED BY A LICENSED VETERINARIAN, THAT SHOW THAT THE COSTS ARE UNNECESSARY.~~

(J) A COSTS ORDER SHALL BE TERMINATED ON THE OCCURRENCE OF:

(1) THE ISSUANCE OF A FINAL JUDGMENT ON THE CRIMINAL CHARGE FOR A VIOLATION OF THIS SUBTITLE;

(2) THE DEFENDANT OR OWNER OF THE ANIMAL SURRENDERING ALL RIGHTS TO THE SEIZED ANIMAL; ~~OR OR~~

~~(3) THE SEIZED ANIMAL BEING NO LONGER UNDER THE CONTROL OF THE PETITIONER.~~ THE SEIZED ANIMAL HAS BEEN FORFEITED AS PROVIDED IN SECTION G(4)

(K) (1) ON THE ISSUANCE OF THE FINAL ORDER ON THE RELATED CRIMINAL CHARGE FOR A VIOLATION OF THIS SUBTITLE, ANY UNUSED PORTION OF REASONABLE COSTS OF CARE REMAINING AFTER FULL PAYMENT IN ACCORDANCE WITH A COSTS ORDER SHALL BE REMITTED TO THE PERSON WHO PAID THE COSTS OF CARE OF THE SEIZED ANIMAL.

~~(2) IF NO RELATED CRIMINAL CHARGE FOR A VIOLATION OF THIS SUBTITLE RESULTS IN ANY CONVICTION AND IF ALL COSTS ORDERED TO BE PAID UNDER SUBSECTION (G) OF THIS SECTION HAVE BEEN TIMELY PAID, THE OWNER SHALL HAVE THE RIGHT TO REPOSSESSION OF THE ANIMAL AND TO A RETURN OF ALL REASONABLE COSTS OF CARE.~~

(B) IF THE PETITIONER IS ACQUITTED OF ALL CRIMINAL CHARGE FOR A VIOLATION OF THIS SUBTITLE AND IF ALL COSTS ORDERED TO BE PAID UNDER SUBSECTION (G) OF THIS SECTION HAVE BEEN TIMELY PAID, THE OWNER SHALL HAVE THE RIGHT TO REPOSSESSION OF THE ANIMAL AND TO A RETURN OF ALL REASONABLE COSTS OF CARE.

(C2) IF THE OWNER IS CONVICTED OF A VIOLATION OF THIS SUBTITLE, ALL ANIMALS SEIZED AS PROVIDED BY THIS SUBTITLE SHALL BE FORFEITED TO THE SEIZING AGENCY.

(D) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PROHIBITING A SEIZING AGENCY AND THE PROSECUTOR FROM AGREEING TO RETURN SOME OF THE ANIMALS AS PART OF A PLEA AGREEMENT.

(L) (1) NOTWITHSTANDING ANY OTHER RIGHTS AND NO LATER THAN THE COMMENCEMENT OF THE HEARING UNDER SUBSECTION (E) OF THIS SECTION, THE ~~DEFENDANT-CUSTODIAN~~ OR OWNER OF THE ANIMAL SHALL HAVE ONE OPPORTUNITY, at a

location the seizing agency determines, TO EXAMINE THE SEIZED ANIMAL FOR THE PURPOSES OF PRESERVING EVIDENCE; BUT IN NO CASE SHALL THAT OPPORTUNITY BE MORE THAN ~~20~~10 DAYS FROM THE DATE OF SEIZURE.

(2) THE EXAMINATION SHALL BE COMPLETED IN THE PRESENCE OF ~~A LAW ENFORCEMENT OFFICER, THE SEIZING AGENCY OR THEIR DESIGNEE~~

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

(N) NOTHING IN THIS SECTION SHALL APPLY TO CATTLE, EQUINES, MULES, DONKEYS, GOATS, SHEEP, SWINE, CHICKEN, DUCKS, GEESE, AND GUINEAFOWL ~~TO ANIMALS USED FOR ACTIVITIES UNDERTAKEN IN A NORMAL AGRICULTURAL OPERATION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

MD COAC Chart.pdf

Uploaded by: Bevan-Dangel, Jennifer

Position: FAV

MARYLAND: COST OF ANIMAL CARE FLOW CHART

Law enforcement seizes animals in a case of illegal animal cruelty.



As provided by current law, the defendant has ten days from the date of seizure to request a hearing to prevent disposition of his/her animals. If he or she fails to, the animals are forfeited to the seizing agency.



If the defendant does makes such a request, the seizing agency may petition for a hearing to request the defendant be responsible for medical and other costs of caring for him/her animals while the cruelty case is prosecuted against him/her. Costs other than medical are limited to \$15 a day.



The seizing agency argues at the hearing why the seizure was warranted and the costs of care requested from the defendant are reasonable. Defendant has the opportunity to object to the request from the seizing agency.



If the judge presiding over the hearing agrees, the defendant is ordered to make monthly payments to cover costs of animal care while the cruelty case against him or her is prosecuted.



The owner makes regular payments and the seizing agency uses the payments for animal care while the cruelty case is prosecuted.



The owner is convicted of animal cruelty and the animals are forfeited to the seizing agency.



The owner is acquitted and the animals and all expenses are returned to him or her.



The owner fails to make payments.



The seized animals are forfeited to the seizing agency and can find new homes.

SB760_FAV_HSUS.pdf

Uploaded by: Bevan-Dangel, Jennifer

Position: FAV



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.

States with COAC laws.pdf

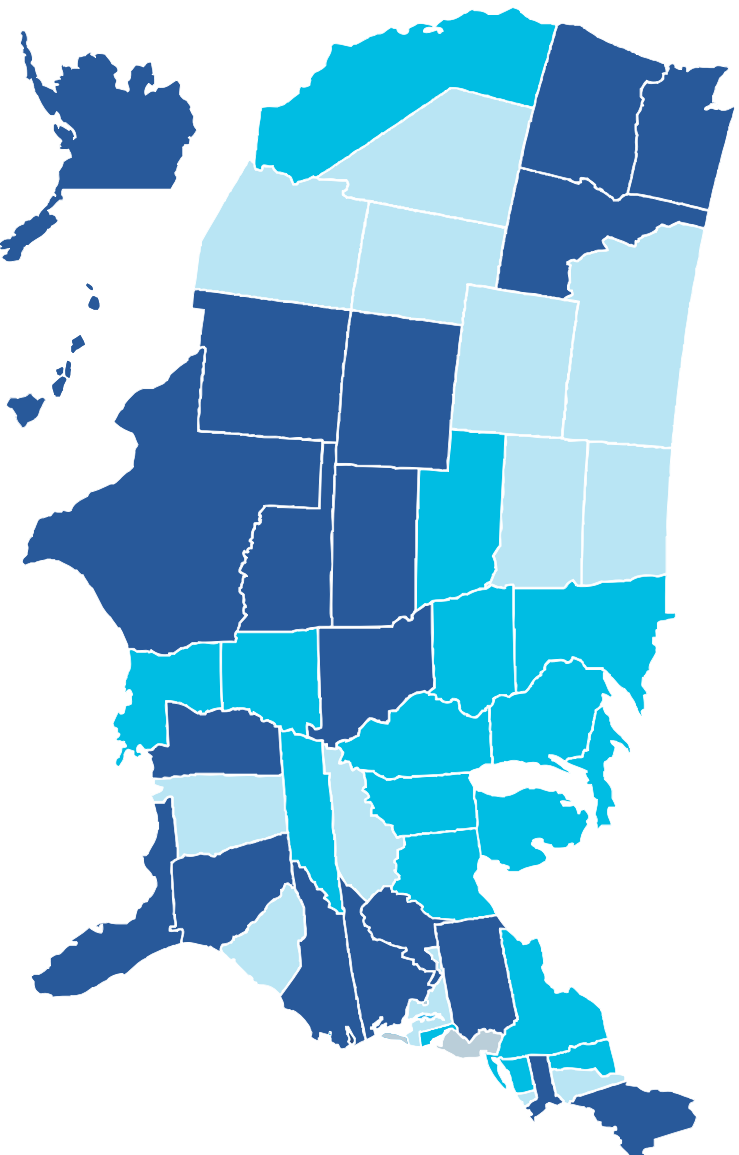
Uploaded by: Bevan-Dangel, Jennifer

Position: FAV

Cost of animal care laws by state

Animal cruelty cases can involve the seizure of dozens or even hundreds of animals. Providing care for the animals for months or years pending trial can be financially devastating to county animal shelters and to the well-being of these abused animals.

- Effective COAC law
- Less effective COAC law
- No effective COAC law



→ FOR MORE INFORMATION, visit humansociety.org/costofcare.

SB 760 Criminal Law – Animal Cruelty – Petition fo

Uploaded by: Crankshaw-Quimby, Patty

Position: FAV



**Maryland's Association of Animal Care and Control
Agencies and Humane Societies**

**PO Box 1143
Easton, Maryland 21601**

**SB 760 Criminal Law – Animal Cruelty – Petition for Costs for Care of Seized Animal
Maryland Senate Judiciary Proceedings Committee**

March 8, 2021

Dear Honorable Chairman Smith, Vice Chair Waldstriecker and members of the committee:

Professional Animal Workers of Maryland, the state organization comprised of animal control agencies and humane societies unanimously stands in support of **SB 760 Criminal Law – Animal Cruelty – Petition for Costs for Care of Seized Animal**.

Animals are property in the state of Maryland. Unlike a vehicle, money, weapons, or other items which may be seized during the investigation of a crime that can be put in an impound lot or a locker, animals require daily and costly care. It is often months, or at times over a year before these cases are heard. The current process in Maryland does not account for this issue. Even when restitution is required at sentencing, we all too often are not seeing these fees paid, and the cost of care of these animals lands in the laps of the taxpayers, not the owner/custodian of the animal(s). We believe this bill provides protections for both owners and agencies.

- By providing a clear process for determining ownership: owners/custodians of an animal(s) have 10 days to file a petition. Failing to do so will forfeit ownership at that time. Currently in some courts, agencies are seeing these animals sit in limbo even when the owner fails to file a civil replevin until a criminal court case is concluded. These animals then must remain in the care of the agency with a daily cost for months and sometimes years.
- A hearing will be set within 21 days of seizure if a petition is filed allowing the seizing agency to provide evidence of a reasonable cost of care, that the seizure was warranted and allow the petitioner to object to the evidence provided.
 - Again, this prevents ambiguity. Setting clear expectations of owners/custodians and the seizing agency.
 - Acknowledges a warranted or unwarranted seizure prior to the criminal proceedings.
 - Sets a reasonable cost of care for the animal(s) in question, and a limit on cost is set.
- Sets a clear process of ownership and costs if:
 - the cost of care is not paid,
 - if the owner/custodian chooses to surrender ownership,
 - If the owner is found guilty,
 - And if the owner is acquitted or charges are not filed.

We wish to make clear this bill refers to cases where violation(s) of the Maryland Annotated Code have been allegedly committed and which rise to the level requiring seizure of the animal(s). Violations of jurisdictional laws such as animals running at large which are picked up as stray or other infractions have administrative remedies at the local level which often include fines and fees.

The clarification in the state law is needed to protect owners, agencies, and animals in Maryland. Professional Animal Workers of Maryland respectfully requests a favorable vote on the presented bill **SB 760 Criminal Law – Animal Cruelty – Petition for Costs for Care of Seized Animal**.

Please feel free to contact me with any questions or concerns.

Sincerely,

Patty Crankshaw-Quimby

Executive Director/Chief Animal Control Officer: Talbot Humane/ Talbot County Animal Control

President: Professional Animal Workers of Maryland

Written Testimony - Cost of Care SB760.pdf


Uploaded by: Griffin, Caroline

Position: FAV

Senate Bill 760

TO: Members of the Senate Judicial Proceedings Committee

DATE: March 8, 2021

FROM: Caroline A. Griffin, Esquire 

RE: **SB760 - Animal Cruelty – Petition for Costs for Care of Seized Animal**

POSITION: SUPPORT

Chairman Smith, Vice-Chair Waldstreicher, and Members of the Senate Judicial Proceedings Committee. My name is Caroline A. Griffin; I am an attorney and reside in Baltimore City. I currently serve on the Boards of the Animal Welfare Institute, Show Your Soft Side, Inc., and Days' End Farm Horse Rescue. I served as Chair of the Baltimore Mayor's Anti-Animal Abuse Advisory Commission from 2009 – 2013 and currently chair the Maryland Spay Neuter Advisory Board. I support HB 1080 – Petition for Costs for Care of Seized Animals.

Maryland currently lacks meaningful cost of care legislation, resulting in a lack of uniformity throughout Maryland courts at sentencing. While judges in Baltimore City have been ordering defendants to pay restitution in animal cruelty cases for years, it is often not paid in full or at all. Since 2015, 71 defendants have been ordered to pay restitution totaling \$83,305.29; however, the Baltimore Animal Rescue and Care Shelter (BARCS), a non-profit, has received payments totaling only \$45,985.93, leaving an unpaid balance of \$37,319.36. These restitution orders are not enforced.

On February 14, 2011, the Tort Trial & Insurance Practice Section (TIPS) of the American Bar Association (ABA) adopted Resolution 108(B), which calls for federal, state, territorial, and local legislative bodies and government agencies to adopt laws and implement policies to ensure the humane treatment and efficient disposition of seized animals (copy attached). The ABA Resolution proposes that individuals having ownership or control of animals at the time of seizure must post a reasonable bond or security or, in the alternative, promptly surrender the animals to the custody of lawful authorities; utilizes a timely process to determine the disposition of animals; and provides for prompt transfer to an appropriate rescue organization or adoptive home. This is precisely what HB 1080 seeks to accomplish.

The Animal League Defense Fund ranks Maryland 31st nationwide in terms of the strength of its animal protection laws, which is based on multiple criteria, including cost of care legislation. HB 1080 addresses a significant deficit in our current law, contains due process protections, and would provide greater certainty and uniformity to litigants. I urge the Committee to issue a favorable report.

Respectfully submitted,



Caroline A. Griffin, Esquire



Date

AMERICAN BAR ASSOCIATION

ADOPTED BY THE HOUSE OF DELEGATES

(108B)

GUIDELINES REGARDING ANIMAL SEIZURES

FEBRUARY 14, 2011

RESOLUTION

RESOLVED, That the American Bar Association urges federal, state, territorial, and local legislative bodies and governmental agencies to enact laws and implement policies to ensure the humane treatment and disposition of seized animals in a timely manner that:

1. Establish effective evidence collection and identification of each animal at the scene of the seizure;
2. Provide prompt and continuing veterinary attention for each animal as warranted by each animal's medical condition;
3. Establish a protocol for humane and appropriate confinement for the animals;
4. Provide that the person who has ownership or control of the animals at the time of the seizure must, consistent with due process requirements, post a reasonable bond or security or, in the alternative, promptly surrender the animals to the custody of the lawful authorities;
5. Utilize a timely process to determine the disposition of the animals and provide for prompt transfer to an appropriate rescue organization or adoptive home with humane euthanization occurring only if an animal's medical or behavioral condition warrants such action or it is determined, after reasonable time and effort have been expended, that no appropriate placement for an animal exists;
6. Provide that the localities and/or organizations caring for the animals be granted restitution for the costs incurred for the care of the animals not covered by a reasonable bond or security by any person who does not promptly surrender such animals.

AMERICAN BAR ASSOCIATION

REPORT TO THE HOUSE OF DELEGATES

(108B)

GUIDELINES REGARDING ANIMAL SEIZURES

FEBRUARY 14, 2011

<THIS IS THE DATE IT WAS ADOPTED...DO WE HAVE THE DATE IT WAS SUBMITTED?>

REPORT

Introduction

Recent seizures of animals have illustrated the challenges faced by authorities dealing with these cases. From high profile cases such as the allegations in the Michael Vick/Bad Newz Kennels case in 2007 and the July 2009 multi-state seizure by federal authorities of hundreds of dogs in the Midwest relating to dog fighting to hoarding and cruelty cases prosecuted by state and local authorities, the seizure of animals occurs on a daily basis.

Potential defendants and the animals are benefited when there is an efficient process in place that provides for the humane treatment and disposition of seized animals.

Evidence Collection and Identification of Animals

This recommendation calls for effective evidence collection and identification of each animal at the scene of a seizure. In large-scale seizures multiple agencies and organizations may be involved in the collection of the animals. It can be a chaotic situation and the amount of evidence that must be collected can be overwhelming.¹ It is imperative for the protection of the integrity of any future criminal process and to sustain the applicable burden of proof that the evidence documenting the scene be preserved.² As with any case, the chain of custody of all evidence collected should be maintained.³ Evidence collection at a scene involving animals will mirror other potential crime scenes. For example, photographs and video should be taken at the scene to document the conditions the animals were found in and the animals themselves.⁴ Each animal should be examined to determine whether there is evidence on the animal and to document the animal's condition.⁵ As an example, the body of an animal (including the animal's teeth or nails) can be examined for DNA evidence.⁶ Any scars or injuries on the animal should be documented and the body condition of each animal should be determined.⁷

¹ MELINDA D. MERCK, DVM, VETERINARY FORENSICS: ANIMAL CRUELTY INVESTIGATIONS 21 (2007) (describing animal cruelty crime scenes). In the July 2009 multi-state raids for dog fighting there were twenty-nine crime scenes to process with over 200 animal specialists and volunteers to coordinate. Sara Shepard, *Forensic Veterinarians Help Take a Bite Out of Dogfighting*, GAZETTE-

MAIL (Charleston, WV), Aug. 8, 2009, at 9A.

² It is important to note that even if initially the expectation is that any charges may be limited solely to the treatment of the animals, evidence of other crimes may be found at the scene.

³ MERCK, *supra* note 1, at 36.

⁴ MERCK, *supra* note 1, at 21 (describing the types of photographs and video that should be taken at the scene). .

⁵ MERCK, *supra* note 1, at 20 (discussing the need to record initial observations as the status of the animal can change after arrival at a veterinary facility).

⁶ MERCK, *supra* note 1, at 66 (discussing the collection and uses of DNA evidence).

⁷ MERCK, *supra* note 1, at 40 (discussing body condition scoring and other aspects of the exam documenting the condition of an animal).

In investigations involving animals, it is often useful to have a veterinarian assist investigators at the scene. The field of veterinary forensics is developing rapidly, and similar to other potential crime scenes, a veterinarian can determine the time of death of any recently deceased animals, or preserve evidence of any decomposing animals.⁸ The number of professionals that are trained in veterinary forensics is growing with programs such as the Veterinary Forensic Sciences Program at the University of Florida providing on-site as well as on-line training.⁹ Having specially trained personnel is ideal but much of the evidentiary process applicable to other crimes will carry over to crimes involving animals.

Each animal should be identified at the scene in a way that will carry through any future proceedings. Usually this is done through an identification number.¹⁰ The animal can be photographed with the identification number or can be fitted with an identification band (if doing so would not interfere with veterinary treatment or the care of the animal). To avoid confusion, it is best if there is consistent numbering of the animals collected at the scene and carried over upon intake if the animals are being sent to multiple facilities.

While it may not be feasible to microchip each animal upon intake, if any animal is transferred outside of the initial intake facility, microchipping can ensure that there is no question that the animal is the one involved in the case.¹¹

Veterinary Attention

This recommendation calls for prompt and continuing veterinary attention for each animal as warranted by each animal's medical condition. As discussed above, ideally a veterinarian will be part of the team on site at the seizure and would participate in the collection of evidence. A veterinarian should also be part of the team to provide immediate veterinary care for any animal in distress on site. It is the responsibility of the authority with custody of the animals to preserve the evidence – which includes the animals themselves.¹² Preserving the evidence includes providing continuing veterinary care to the animal to ensure that the animal's health does not deteriorate while in the custody of the relevant authorities.

⁸ MERCK, *supra* note 1, at 19-30.

⁹ See also International Veterinary Forensic Sciences Association, www.ivfssa.org (last visited April 5, 2010) (describing the association and opportunities for training in veterinary forensics). ¹⁰ Rebecca J. Huss, *Lessons Learned: Acting as Guardian/Special Master in the Bad Newz Kennels Case*, 15 ANIMAL L. 69, 78 (2008) (discussing the use of kennel numbers for official correspondence and court documents and describing how the dogs in the case were provided with a “call name” to distinguish each dog as an individual during the time the dogs were being evaluated prior to final disposition).

¹¹ For example, sixteen dogs that were housed in foster homes before the final judicial order in the Bad Newz Kennels case were microchipped prior to each animal's release from the animal control facilities.

¹² MERCK, *supra* note 1, at 7

The medical condition of an animal can also impact an animal's behavior. Ensuring that animals are maintained in or restored to good health allows for a more accurate determination of an animal's behavioral status.

Humane and Appropriate Confinement

This recommendation calls for humane and appropriate confinement of the animals after the seizure. According to the National Animal Control Association Training Guide usually, after a seizure, the animals will be transported to the seizing officer's animal welfare agency. The animal welfare agency is responsible for the care and treatment of the animals.¹³

The most common places where animals from a mass animal seizure are housed initially include: (a) local and regional humane societies or SPCAs, (b) local and regional animal control and services agencies, (c) other private area animal shelters or rescue organizations, (d) veterinary clinics and hospitals, (e) local fairgrounds, (f) local equestrian centers and ranches, and (f) at the crime scene itself.

Timely transfer of the animals from shelters to foster homes as appropriate is beneficial for the animals. In the Bad Newz Kennels case sixteen of the dogs were transferred from shelters to foster homes after the civil forfeiture process was complete but prior to final disposition of the dogs. It was extremely positive for the dogs to be out of the shelter environment and in homes. The transfer reduced the burden on the Virginia shelters that had been caring for the dogs since the time of the seizure and reports from the foster homes provided valuable information for the guardian/special master who was making a recommendation on the disposition of the dogs.¹⁴

Posting of Bond or Security or Surrender of Animals

This recommendation calls for a more efficient and effective way to treat the property seized in these cases. Animals are by their nature different than guns, money, or property seized as a result of other crimes. Because the property in these cases is a living being, the authorities and the courts must treat them differently. In recent years a number of states, through their legislative processes, instituted bonds or mandatory surrender of the animals in these cases.¹⁵ These new bond provisions were created out of necessity because animals were literally waiting in shelters for one to two years for the trial process to end. The best of these laws ensure that an adequate bond is posted for a reasonable amount of time (nine months). Also, if the person charged does not agree to post the bond, then he or she is required to surrender the animal. In the event the person is found not guilty, they would be reimbursed for the cost of the property or the amount of the

¹³ NATIONAL ANIMAL CONTROL ASSOCIATION TRAINING GUIDE 6 (John Mays ed. 2009).

¹⁴ Huss, *supra* note 10, at 78-79.

¹⁵ 510 ILL. COMP. STAT. 70/3.04-3.06 & 720 ILL COMP. STAT. 5/26 (2009); VA. CODE. ANN. 3.2-6571 & 3.2-6569 (2009).

posted bond.¹⁶ It is imperative that the prosecutors request a bond when the seizure hearing is held.¹⁷

Timely Process to Determine the Disposition of the Animals

This recommendation calls for a timely process to determine the disposition of the animals and for prompt transfer of the animals to an appropriate rescue organization or adoptive home. The judge has the ultimate disposition power. In a recent case U.S. District Judge David Lawson in Detroit granted the Humane Society of Kent County custody of eleven pit bulls seized in a dog-fighting bust, a ruling expected to make the animals eligible for adoption. The decision ended the Eastern District of Michigan's U.S. Attorney's Office bid to euthanize the dogs seized last summer after agents broke up a dog-fighting ring in eastern Michigan.¹⁸

The evaluation of a victim of cruelty is an organic process, one that changes over time. Animals vary widely in their resiliency or sensitivity to stressful or traumatic situations.¹⁹ Behavioral assessment of animals that have been victims of cruelty can serve several purposes. First, such an evaluation helps to provide an overall picture of the animal's health, with an emphasis on determining behavioral health rather than the presence of a specific behavior problem. Such an assessment can be helpful in evaluating the consistency of accounts explaining the animal's injuries. For example, an allegation that a dog was struck or kicked because she responded aggressively when gently petted would be called into question if the animal responded nonaggressively to handling by a variety of people.

Second, such an evaluation can help assess the likelihood that the animal will be able to recover behaviorally, as well as physically, from the effects of abuse. This may be necessary in cases where animals have been seized from an animal hoarder, puppy mill, or dog-fighting situation.

Every effort should be made to place the animals. Humane euthanasia should be a last resort only if the animal's physical or behavioral condition requires such action. If suitable housing for the animals is limited, a behavioral assessment may need to be part of the triage procedure for deciding which animals would benefit most from the limited resources available to rehabilitate and re-home them.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Paul Egan, *Judge Spares Dogs Rescued in Fight Probe*, DET. NEWS, Mar. 10, 2010, at A3.

¹⁹ LESLIE SINCLAIR, DVM et al., FORENSIC EVALUATION OF ANIMAL CRUELTY: A GUIDE FOR VETERINARY AND LAW ENFORCEMENT PROFESSIONALS 68 (2006). *See also* Robert Patrick, *Sweet Success After Dog Raid: Humane Society Expects to Save 60 Percent of Animals Seized in Area*, ST. LOUIS POST DISPATCH, Nov. 26, 2009, at A1 (discussing the results of the evaluation of the dogs seized as part of the July 2009 multi-state raids for dog fighting and the fact that the percentage of dogs expected to be saved is much higher than predicted).

Behavioral evaluations have been used in a myriad of cases including the Bad News Kennels case and the largest dog fighting bust in United States history that occurred in 2009. In the 2009 case teams of animal behavior experts from across the nation assessed more than 500 dogs seized from alleged dog-fighting operations in Missouri, Illinois, Oklahoma, Texas, Mississippi, Iowa, and Nebraska.²⁰

Restitution

This recommendation calls for effective compensation to the localities and/or organizations caring for the seized animals. In many animal cruelty and animal fighting busts the animals are in extremely poor condition at the time of the seizure. The animals must be given proper medical care to maintain them prior to resolution of the case. Many of these animals had never received adequate or any veterinary care. Thus, providing the proper care upon seizure becomes important and costly.²¹ In order for localities and/or organizations to recoup their costs for the daily care and veterinary expenses incurred while maintaining these neglected and abused animals, the prosecutor must ask for restitution at sentencing.²² The restitution should cover the daily expense of caring for the animal at the shelter or other location²³ and also any veterinary expense incurred in treating the animal's injuries.²⁴ If the person has posted a bond, the bond should be

²⁰ *More than 400 Pit Bulls Seized*, WICHITA EAGLE (Kan), July 23, 2009, available at 2009 WLNR 14250021 (discussing the evaluation of the dogs).

²¹ Ian Urbina, *Animal Abuse as Clue to Additional Cruelties*, NEW YORK TIMES, Mar. 18, 2010, at A16 (reporting that the estimated cost of rescuing and caring for 170 dogs from a hoarder's home in Franklin County, Ohio was \$1.2 million); see also *Shelter Seeks Help with Rescued Ribera Dogs*, SANTA FE NEW MEXICAN, June 7, 2009, available at 2009 WLNR 10959246 (reporting that the estimated costs for caring for forty-two dogs rescued from an alleged hoarder would likely exceed \$40,000); Dawn Gagnon, *Animal Care Tops \$50,000*, BANGOR DAILY NEWS, Oct. 3, 2007, at 6 (reporting on the costs of caring for twenty dogs removed from their owner); Anne Paine, *Some Neglected Tennessee Horses Find Greener Pastures*, THE TENNESSEAN (Nashville, TN), Dec. 22, 2009, available at 2009 WLNR 25727798 (reporting the cost of care of eighty rescued horses at \$250,000); Keren Rives, *Man Pleads Guilty to Dog Fighting: Sentences to Two-Year Probation*, TIMES-NEWS (Burlington, NC), Mar. 11, 2010, available at 2010 WLNR 5177388 (reporting on order to pay restitution in the amount of \$16,000 for the costs incurred by the city of Burlington, although the estimated costs incurred to date was \$41,548).

²² VA. CODE ANN. 3.2-6570 (2009).

²³ Christine Clarridge, *600 Rescued Dogs and 80% are Pregnant*, THE SEATTLE TIMES, Jan. 24, 2009, available at 2009 WLNR 1422209 (illustrating that the cost associated with seizures can skyrocket for local shelters charged with caring for the seized animals).

²⁴ Abby Simons, *Shih Tzu Rescue Seeks Public's Help with Dogs*, STAR TRIB. (Minneapolis, MN), Nov. 14, 2009, at 02B (discussing the cost of veterinary care for eight dogs, still remaining at Minneapolis Animal Care and Control, who were seized from an individual charged with misdemeanor animal cruelty).

ordered to be used in providing the restitution. If the bond does not cover the amount of the restitution, the prosecutor should ask the court to order that full restitution be paid.²⁵

Conclusion

The Tort Trial and Insurance Practice Section urges adoption of this recommendation calling for all federal, state, territorial, and local legislative bodies and governmental agencies to adopt laws and polices to ensure the humane treatment and timely disposition of seized animals.

Respectfully submitted, Jennifer Busby, Chair
Tort Trial and Insurance Practice Section
February 2011

SB 760 LOS Final.pdf

Uploaded by: Hale, Terry

Position: FAV

President Robert Meffley, District 1
Vice President Jackie Gregory, District 5
Councilman William H. Coutz, District 2
Councilman Al Miller, District 3
Councilman George Patchell, District 4



James Massey
Council Manager

County Council Office
410.996.5201
Fax: 800-865-0587

COUNTY COUNCIL OF CECIL COUNTY
Cecil County Administration Building
200 Chesapeake Boulevard, Suite 2110, Elkton, MD 21921

March 2, 2021

The Hon. William C. Smith, Jr., Chair
Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, MD 21401

RE: SB 760 Criminal Law – Animal Cruelty – Petition for Costs for Care of Seized Animal
Letter of Support

Dear Senator Smith and members of the Judicial Proceedings Committee:

The County Council of Cecil County unanimously supports SB 760 Criminal Law- Animal Cruelty- Petition for Costs for Care of Seized Animal, which had been scheduled for hearing on March 10, 2021.

It is our understanding that this legislation will allow that an agency that seizes an animal can file a petition against the owner for reasonable costs for caring for the animal, within seven days that the owner is charged.

The Cecil County Animal Services, under county government, provides animal welfare, adoption, and fostering to the community. Although supported by county funds, the cost of medical treatment and extended care for animals that have been mistreated can be significant. This legislation can benefit our animal services so that costs for reasonable care can be reimbursed by the owner. Without this reimbursement, the county depends on private donations and volunteers to cover these expenses. Some animals must be euthanized because of limited funding.

Cecil County Council respectfully requests that the Judiciary Committee consider a favorable report on SB 760.

Sincerely,


Robert Meffley
Council President

Copy: Cecil County Delegation

Copy: Senator Steve Hershey
Senator Jason Gallion

SB0760-JPR_MACo_SUP.pdf

Uploaded by: Neil, Devin

Position: FAV



Senate Bill 760

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

MACo Position: **SUPPORT**

To: Judicial Proceedings Committee

Date: March 10, 2021

From: Devin Neil

The Maryland Association of Counties (MACo) **SUPPORTS** SB 760. This bill creates a reasonable process to ensure that a person committing animal cruelty can be court-ordered to pay the cost of care provided to the animal by a local control agency or shelter.

Animals seized due to the owner's cruelty are held in a shelter while the cruelty charges are being prosecuted. Such cases can last months, even years. From the time the animal is seized until it is either forfeited or returned to the owner, the shelter incurs numerous costs. The seized animals are often suffering from the abuse and neglect of their owners, and in need of special care. Shelter expenses include seizing, feeding, sheltering, providing medical care, or disposing of the animal. These costs add up quickly and can be significant for the local agencies.

SB 760 addresses this issue by authorizing the court as a condition of sentencing to order a defendant to pay reasonable costs incurred in removing, housing, treating, or euthanizing an animal that was confiscated from the defendant. The petition is not automatic, it is an option to be granted by the courts. This system places a fair burden on the defendant to reimburse the agencies that remove and care for the animals if court-ordered to do so, and it also provides safeguards for the defendant by ensuring they are only potentially liable for these costs if they have been convicted in court.

SB 760 helps local animal control agencies recoup the reasonable costs for lawfully seized animals in their care by making sure owners convicted of animal cruelty can be held responsible by the courts for these costs. For this reason, MACo requests a **FAVORABLE** report on SB 760.

Criminal Law - Animal Cruelty- Petition for Costs

Uploaded by: Radov, Lisa

Position: FAV



MARYLAND VOTES FOR ANIMALS

PO Box 10411
BALTIMORE, MD 21209

March 10, 2021

To: Senate Judicial Proceedings Committee
From: Lisa Radov, President and Chairman, Maryland Votes for Animals, Inc.
Re: Criminal Law – Animal Cruelty- Petition for Costs of Care of Seized Animal- SB 760-Support with sponsor amendments

Chairman Smith, Vice Chairman Waldstreicher, members of the Judicial Proceedings Committee, thank you for the opportunity to testify before you today. My name is Lisa Radov and I am the President and Chairman of the Maryland Votes for Animals, Inc. We champion legislation to improve the lives of animals in Maryland. On behalf of our board of directors, as well as the thousands of members of Maryland Votes for Animals, I respectfully ask that this committee vote favorably for Criminal Law – Animal Cruelty- Petition for Costs of Care of Seized Animal- SB 760 with sponsor amendments.

This bill codifies the existing practice of animal control agencies around the state by going into further detail about the process for animals seized in cruelty cases. By establishing a uniform system, all parties, including the accused, the animals, and the animal control agencies are protected. Over 40 states have costs of care laws, including our neighboring states: Pennsylvania, Virginia, Delaware, and West Virginia.

SB 760 will provide relief for financially strapped animal control agencies as well as Maryland taxpayers, who should not be financially responsible for the animals seized in a cruelty case. Moreover, it will allow the animals who have been determined by their owner to be too much of a financial burden, to be adopted into loving homes – instead of waiting months or years - for the case to be decided.

How often do we get to pass legislation that is both compassionate and fiscally responsible? This bill is both.

I would like to thank Senator Ready for his sponsorship of this bill and urge a favorable report.

Let Kindness Reign, Vote Humane

WWW.VOTEANIMALS.ORG

Animal Cost of CareSB760 (2).pdf

Uploaded by: Ready, Justin

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Senator Justin Ready
SB 760– Senator Ready
Criminal Law – Animal Cruelty – Petition for Costs for Care of Seized Animal

Chairman Smith and fellow members of the Judicial Proceedings Committee:

As amended, SB 760 is a commonsense bill that provides for affordable preservation of humane treatment of animals in Maryland. **Cost of animal care legislation is smart, reasonable legislation that puts the cost of caring for animals where it belongs - with the person who is responsible.**

This legislation establishes a legal process for individuals who have their animals seized due to animal cruelty charges, and only requires the owner to pay for the cost of care **IF** the court determines the seizure was lawful.

One of the greatest obstacles when enforcing animal cruelty laws is the huge cost associated with caring for abused animals while cruelty charges are prosecuted. SB 760 prevents animal control agencies from incurring debilitating costs in animal cruelty cases and holds abusers accountable for their actions. At the hearing, the seizing agency must present evidence that demonstrates reasonable cost of care for the animal and that the seizure was warranted – charges would be capped at no more than \$15/day plus necessary veterinary costs. The owner would be required to post a bond in amount determined by court. If ultimately found not guilty in the criminal trial, they will have their bond payment returned.

Currently the alleged violator may file a petition for the return of the animal within 10 days or the animal will be considered forfeited. Under this bill, the county district court is required to hold a hearing within 21 days from day the animal/s were seized. If the owner fails to post bond, ownership of the animal is relinquished, and the seizing authority can adopt the animal out.

For major animal cruelty cases, such as dog fighting, or hoarding cases, seizure of dozens of animals is common. The cost of care for these animals for months or years with cruelty charges pending is a devastating cost to county budgets. Financially strapped centers can be forced to turn away adoptable animals due to limited resources.

Thirty-six states have similar mechanisms in their law to shift the cost of caring for the seized animals from the county animal control agencies to the owners. The Maryland Cost of Animal Care Act is essential towards protecting the humane treatment of animals in our state.

I respectfully request a **favorable** vote on Senate Bill 760.

Cost of Care.pdf

Uploaded by: mowery, crystal

Position: FWA

As the Field Service Director of the Humane Society of Washington County, I can attest firsthand to the difficulties that myself and my officers face when carrying out our duties to protect the animals under the current state laws.

There are laws in place to protect the animals and their owners. But the agencies assigned to enforce the laws, hit roadblocks when it comes to carrying out civil procedures due to what the Court of Appeals referred to as, and I'm quoting, "a drafting error by the code of revisers".

Currently, we are faced with holding animals whose owners have failed to appeal for their return, either in a timely matter, or at all until a criminal trial is over. This affects not only the agencies responsible for housing the animals, but the animals themselves.

For example, my agency seized 15 dogs from a suspected dog fighting operation. Due to current law providing no avenues to pursue for impounding agencies, we were forced to house these dogs for 16 long months. These animals were forced to spend 16 months in a kennel, and staring at the walls was the equivalent of a prisoner doing hard time in solitary confinement. Except they were the victims being forced to do the time. They suffered mental anguish as was seen when these dogs that were so eager to receive human attention in the beginning, turned on their caretakers out of pure frustration.

Take a hoarder's house, where 39 dogs and 7 cats are removed. The animals are all suffering from illness like most seizure cases, and we now have 39 dogs that are being housed in the building for just one, of many cases. Dogs are coming in as strays every day, and the building is now full. With no clarity on the law, we must hold the 39 dogs until the criminal trial is over which can take years, after many appeals are filed. After a "true stray" has been held for 5 days, we are then forced to euthanize them due to lack of space. Yes that friendly, loveable, cute adoptable dog that a citizen dropped off hoping it will find its forever home, must be euthanized because there is simply no room. 39 dogs are taking up all the room. 39 dogs that our agency is now responsible for paying for all their needs with likely no reimbursement in the end.

Our largest case was the seizure of 95 animals. The owner exercised his right to appeal the impoundment and his petition was denied. What followed was a 2 year appeal process. During this time, our agency struggled with finding caretakers willing to house 95 animals. Some of the animals went thru multiple caretakers as the burden of care was enormous. In the end, the Court of Special Appeals noted the flaws in our current laws that neither provides the agency or the owner of said animals any immediate remedy to an impoundment. In fact, there is no remedy at all unless an owner legally surrenders his ownership rights.

The agencies contracted to uphold the animal cruelty statutes need relief now. If forced to continue under the current statutes with no relief or remedy for years on end, no agency can continue to operate at a level expected by our citizens.

cost of care 2021 Senate.pages.pdf

Uploaded by: Seigler, Jane

Position: FWA

SB-760 - Criminal Law – Animal Cruelty – Petition for Costs for Care of Seized Animal
Maryland Horse Council, FAVORABLE WITH AMENDMENT

Hearing before the Senate Judicial Proceedings Committee, March 10, 2021



MARYLAND HORSE COUNCIL
PO BOX 606
LISBON, MD 21765

The Maryland Horse Council (MHC) is a membership-based, umbrella trade association of the entire horse industry in Maryland. Our membership includes horse farms and stables, horse-related businesses, and horse owners, representing all facets of the Maryland equestrian community, from the owners of race horses to the owners of trail horses or just beloved retired companion horses. As such, we represent over 30,000 Marylanders.

MHC recognizes that Maryland's current animal abuse and neglect seizure law (Criminal Law Section 10-615) provides too little guidance or structure to courts, law enforcement, and animal control authorities when domestic animals suffer and seizure is the only option. There are a number of post-seizure disposition options available for livestock that would mitigate or even obviate the need to provide for compensation of costs of care for the seizing authority. SB 760, as drafted, does not provide a such a range of disposition options for abused and suffering livestock (including horses, mules, and donkeys), that is acceptable to MHC. Nor does SB 760, as drafted, do anything to correct some built-in incentives for seizing agencies to overreach their mission during livestock seizures.

MHC has worked with Professional Animal Workers of Maryland (PAWS) on a reasonable cure of these deficiencies, and urges the sponsor to amend SB 760 to exclude all livestock by species from its application. SB 760, if so amended, would provide good options for abused *companion* animals and the cost of their care after seizure and before trial while placing the burden of that care on the abusing custodian. Therefore, MHC would support SB 760, provided it is amended to exclude all livestock.

Respectfully submitted,

Maryland Horse Council

MD Judiciary - Testimony SB 760.pdf

Uploaded by: Elalamy, Sara

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 760
Criminal Law – Animal Cruelty – Petition for Costs for Care of
Seized Animal
DATE: February 17, 2021
(3/10)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 760. This bill relates to the seizure of animals as part of animal cruelty prosecutions. Under this bill, if an animal is seized under Section 10-615 of the Criminal Law Article, an officer or authorized agent of a humane society, or a police officer or other public official required to protect animals may file a petition against the animal owner or custodian for the reasonable costs of caring for the animal, including the provision of food, water, shelter and medical care. The petition shall be filed within seven days after criminal charges are filed against the owner or custodian of the animal and must be served within seven days of filing. On receipt of the petition, the court shall set a date for a hearing to determine the responsibility of the owner or custodian for the reasonable costs of care for the seized animal. The hearing must be scheduled not less than 14 days but not more than 21 days from the service of the petition.

The scheduling provisions provided in this bill would be difficult to implement. For example, this bill requires the court to issue an order no later than five days after the commencement, not the conclusion, of the hearing. This timeline is problematic if not impossible, especially if a hearing has been continued.

Further, the bill requires a court to order an owner to pay any filing fees and costs of animal care. This court order shall include a schedule of payments with automatic forfeiture of the animal if the owner fails to make schedule payments. It is not clear, however, who monitors the owner's compliance with the payment schedule.

Finally, the bill states that an order for payment of costs shall terminate if the owner surrenders rights to the animal or if the animal is no longer under the control of the petitioner but, again, the bill does not explain who is to monitor the status of the animal for purposes of potentially terminating the order.

cc. Hon. Justin Ready
Judicial Council
Legislative Committee
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American Kennel Club Testimony on SB 760 – Petition for Costs of care of Seized Animals

Chair Smith, Vice Chair Waldstreicher and Members of the Senate Judicial Proceedings Committee:

The American Kennel Club (AKC) provides this written testimony on behalf of our Maryland dog clubs and thousands of constituent dog owners in Maryland. Having had an opportunity to speak with the sponsor and understanding that an amendment version of the bill has been drafted, I would like to address concerns with the bill as introduced as well as the amended version.

As introduced, AKC opposes the bill and seeks amendments that address the following concerns:

1. Our main concern is the potential loss of ownership of an animal for failure to make a payment for cost of care for an owner who is ultimately found not guilty of the charges.
2. The inability for a judge to consider the ability of an owner/custodian to pay in establishing the cost for care.
3. Requirement that if petitioner prevails, the owner/custodian must pay the petitioner's cost of filing (petitioner has no deterrent to not file).
4. No limitation on veterinary care – alteration should only be allowed if medically necessary to save an animal's life (this especially important if owner/custodian found not guilty).

AKC understands that amendments are being offered. We greatly appreciate the amended language that enables an owner found not guilty to repossess their animal and have their money returned, if all costs ordered to be paid have been done so in a timely manner. However, under section G 4 it states: ***If a defendant subject to a costs order fails to timely pay any of the amounts ordered; such that, funds are not deposited within 7 days as required by the order.***

(i) a seized animal for which reasonable costs of care were ordered shall be automatically forfeited, by operation of law, to the Seizing Agency; and

(ii) the seizing agency shall obtain all rights and privileges in and over the animal.

This section would seem to deny that same owner who is found not guilty the ability to have their animals returned simply because they failed to make timely payments. We respectfully ask that this be clarified. AKC believes that if the individual is not guilty, their animals should be returned to them as they were, and they should continue to be the owner of the animal.

Additional concerns with the amended version include:

1. Failure to file an initial petition by the owner or custodian renders the conditions for return of an animal after acquittal moot as section (b) (2) states: IF THE OWNER OR CUSTODIAN DOES NOT PETITION WITHIN

10 DAYS..., THE ANIMALS WILL BE FORFEITED TO THE SEIZING AGENCY. If a person ultimately found not guilty of the original charges that resulted in the seizure failed to file the initial petition, they no longer retain ownership of the animals which were, are, and should continue to belong to the owner.

2. The inability for a judge to consider the ability of an owner/custodian to pay in establishing the costs for care unless it involves two animals or less. While we greatly appreciate that costs are limited to \$15 per day this does not include the cost of medical care. Inability to pay could be a deterrent to filing a petition to begin with, so the rightful owner of the animals may be denied ownership with no recourse to get them back should they be found not guilty.
3. No limitation on veterinary care – alteration should only be allowed if medically necessary to save animals life (this is especially important if owner/custodian found not guilty).

While we understand the concerns and issues this proposal seeks to address, Senate Bill 760 as originally introduced, and portions of the proposed amended version do not allow a person to be innocent until proven guilty. In particular, the bill disproportionately punishes those with low or fixed incomes who may not be able to pay the charges throughout an ongoing trial process in both versions, or to file a petition in the amended version.

The AKC strongly supports the humane treatment of dogs and believes that no dog or animal should be kept in cruel circumstances. We agree that those *convicted* of animal cruelty should be held accountable, including paying for the costs of caring for the animals they mistreated. We thank the sponsor for the many efforts made to address concerns. However, AKC continues to be concerned that Senate Bill 760 will have detrimental effects on animal owners whose animals are unjustly seized, who are found not guilty, or against whom charges are dismissed.

Thank you for reviewing and considering my testimony.



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