

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 234
Criminal Law – Harm to Service Animals
DATE: January 20, 2021
(1/28)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 234. House Bill 234 amends the Criminal Law Article to state that a person may not intentionally or recklessly kill or injure a service animal or allow an animal that the person owns or over which the person has immediate control to kill or injure a service animal. As a condition of sentencing, the court shall order a defendant convicted of violating this section to pay, in addition to fines and costs, full restitution for all damages arising out of the offense.

The Judiciary traditionally opposes legislation that includes mandatory provisions. The Judiciary believes it is important for judges to weigh the facts and circumstances for each individual case when imposing a sentence. Provisions that place restrictions on the judge prevent the judge from considering factors unique to the case. Recognizing that lawmakers are responsible for enacting penalties for crimes, judges are mindful of various mitigating factors in crafting a sentence that most appropriately fits the individual defendant and the crime.

In addition, the bill states that a person may not “intentionally or recklessly” commit the prohibited acts described in the bill, but that appears to be in conflict with Criminal Law, § 10-602 which states: “It is the intent of the General Assembly that each animal in the State be protected from intentional cruelty[.]” (Emphasis added.) This bill would create § 10-626, which would fall within the same statutory subtitle as § 10-602, but the bill covers acts committed “recklessly” in addition to intentional acts that are the focus of § 10-602. Additional clarity or consistency on the level of mens rea required for a violation of the acts described in the bill may allow for more uniform application of the bill.

cc. Hon. Nicole Williams
Judicial Council
Legislative Committee
Kelley O’Connor