

MARYLAND STATE BAR ASSOCIATION ANIMAL LAW SECTION

February 28, 2022

Delegate Luke Clippinger., Chair
Delegate Nicholas Kipke
House Judiciary Committee
Room 101
House Office Building
Annapolis, Maryland 21401

RE: Written Testimony of the Animal Law Section of the Maryland State Bar Association in support of HB 1375

Dear Delegate Clippinger, Delegate Kipke, and House Judiciary Committee Members,

The Animal Law Section of the Maryland State Bar Association supports the passing of HB 1375 which established an exception to the cap on compensatory and noneconomic damages for a tortfeasor who acted with gross negligence, intent, or malice or in violation of the Maryland Declaration of Rights.

The unique value of a companion animal is a challenging and fact specific inquiry. Current legislation does not adequately compensate for the scope of damages resulting from tortious injury or death of a pet, allowing recovery for only the fair market value of the pet and the cost of veterinary treatment, while capping the maximum recovery at \$10,000.00.

Sentience and self-awareness are distinguishing characteristics of both companion animals and their owners, and these traits nurture relationships between humans and pets that transcend economic value. Suffering and death are uniquely painful to self-aware beings, particularly when the pet is capable of understanding that the damage is inflicted with negligence, intent, or malice.

We can empathize with the emotional toll that losing a loved pet can inflict on an owner. While an award of damages cannot completely remedy this suffering, it is well established in Maryland that non-economic damages are the way in which we attempt to make a Plaintiff whole. It is reasonable, and arguably should be expected, that if a tortfeasor acts to injure or kill a pet with gross negligence, intent, or malice the victim will suffer non-economic damages. As a matter of public policy, we should not allow people to attack other's pets without regard to the victim's suffering.

The need for this legislation is highlighted by the Court of Appeals of Maryland's recent ruling in *Anne Arundel Cnty. v. Reeves* (Md. App. 2021). In *Reeves*, the Court specifically stated that Md. CJ §11-110 did not permit recovery in excess of the statutory cap, and further stated

that other forms of recovery, such as claims for non-economic damages, were not available to a Plaintiff seeking damages under said law. As a result, **only the legislature has the power to remedy the injustice of our current law.**

Thank you for the time and consideration that you have dedicated to this written testimony, and the Animal Law Section of The Maryland State Bar Association is hopeful that you will vote in favor of HB 1375.

Respectfully Submitted,

/s/

Fernando E. Guerra,

Chair

Animal Law Section of The Maryland State Bar Association