



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: HB 1192 Criminal Law - Animal Cruelty - Suspected Commission by a Minor

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 3/6/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 1192.

House Bill 1192 creates a brand-new criminal statute requiring investigation of all suspected animal cruelty. This bill is overly broad, could ensnare innocent children within its requirements, and is unnecessary.

Maryland already has multiple criminal statutes regarding acts of animal cruelty which may be applied to minors.¹ The term ‘animal’ is broadly defined to include any living creature except a human being.² ‘Animal cruelty’ is a low standard which includes unnecessary or unjustifiable physical pain.³ The criminal statutes already in place protect not merely pets, but also farm animals, strays and feral animals.⁴ The criminal statute prohibits both participating in and being a spectator at a dogfight and cockfight.⁵ Animals, with some exception, may not be given away as prizes.⁶ Animals cannot be abandoned by their owners.⁷ Under most circumstances, puppies and kittens under 8 weeks old may not be sold or distributed without their mother.⁸ Horses, carrier pigeons, and service animals have special protections under law to prevent abuse and capture.⁹ Declawing of cats is prohibited unless done for a therapeutic purpose.¹⁰ Officers of the Humane Society who witness cruelty to an animal are required by law

¹ MD. CRIM. LAW §§ 10-601 – 10-626.

² MD. CRIM. LAW §§ 11-601(b).

³ MD. CRIM. LAW § 11-601(c).

⁴ MD. CRIM. LAW § 11-602.

⁵ MD. CRIM. LAW § 11-605, 11-607, 11-608.

⁶ MD. CRIM. LAW §§ 11-610.

⁷ MD. CRIM. LAW § 11-612.

⁸ MD. CRIM. LAW § 11-613.

⁹ MD. CRIM. LAW § 11-620, 11-622, 11-626.

¹⁰ MD. CRIM. LAW § 625.1, MD. AGRIC. LAW § 2-313.3.

to make an arrest.¹¹ And police have the general authority to investigate all alleged criminal acts. Thus, minor who violate the criminal statute, if 13 or older, are subject to the jurisdiction of the Juvenile Justice System.

House Bill 1192 lowers the standard of suspicion and requires involvement from law enforcement or and authorized agent of the humane society if the officer or agent as reason to believe a minor — of any age — committed an act of animal cruelty. The ‘reason to believe’ standard is not one generally recognized in law and could require an officer or agent to investigate where there is virtually no evidence of a crime.

House Bill 1192 permits the investigating officer or agent to “coordinate with the appropriate social services agency.” However, the bill fails to define what this coordination entails and fails to define what the ‘appropriate’ social services agency might be. The bill permits social services agency to evaluate the minor without parental consent or court order. The social services agency is allowed to provide ongoing monitoring and support of the minor as appropriate. The bill fails to define ‘ongoing monitoring’ or when the ‘ongoing’ nature of the monitoring should end. The bill fails to define ‘support.’ The bill fails to define what is ‘appropriate.’ Such limitless authority without court review is ripe for abuse.

House Bill 1192 allows an authorized agent of the human society to seize an animal merely based on suspicion alone. Thus, minors who are merely suspected of animal cruelty are treated as if they are guilty. No trial or due process required.

House Bill 1192 does not provide a minimal age of ongoing monitoring, support, or seizure. A five-year-old suspected of animal cruelty can be ensnared in House Bill 1192 with no means of escape.

As with any criminal act involving minors, the police may arrest and charge if there is probable cause to believe a law has been broken. The Department of Juvenile Services can offer services to the minor and family. And the State’s Attorney may prosecute if to seek further accountability and services if necessary. The Juvenile Justice System has the infrastructure and training in place to handle such accusations. House Bill 1192 creates a parallel path of unknown actors with unbounded authority to deal with mere suspicion of animal cruelty. This parallel path is unnecessary. Moreover, House Bill 1192 never mentions the word ‘parent.’ If an officer, agent, or citizen suspects a minor of animal cruelty, parents should be the notified as they are in the best position to help their child.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on HB 1192.

**Submitted by: Maryland Office of the Public Defender, Government Relations Division.
Authored by: Jeremy Zacker, Assistant Public Defender, jeremy.zacker@maryland.gov**

¹¹ MD. CRIM. LAW § 11-609.