

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 362
 Judiciary

(Delegate Waldstreicher, *et al.*)

Criminal Law - Costs of Care for Seized Animals

This bill establishes that the owner or custodian of an animal seized or removed under specified statutory provisions related to animal cruelty and impounded animals is liable for the reasonable costs of caring for the animal from the time of seizure or removal until the animal is forfeited to the seizing authority or returned to the owner or custodian. These costs include those associated with (1) seizing or removing the animal; (2) transporting the animal from the place of seizure or removal; (3) providing medical care to the animal; (4) feeding the animal; (5) sheltering the animal; and (6) disposing of the animal, if necessary.

Fiscal Summary

State Effect: General fund expenditures increase by \$57,300 in FY 2016 only for the Judiciary to reprogram computers to accommodate the bond posting/fund withdrawal process under the bill. Revenues are not affected.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	(57,300)	0	0	0	0
Net Effect	\$57,300	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government expenditures decrease to the extent that the bill's provisions defray costs incurred by local government entities that seize and care for confiscated animals. The extent of this decrease depends on the level of enforcement activity in the jurisdiction.

Small Business Effect: Potential meaningful impact to the extent that local governments reimburse veterinarians and animal care facilities for animal care.

Analysis

Bill Summary: A person who seizes or removes an animal must post a notice to the animal's owner or custodian, in a conspicuous place at the location where the animal was seized or removed. The notice must include (1) a description of the animal; (2) the statutory authority and reason for the seizure or removal; (3) any administrative remedies that may be available to the owner or custodian; (4) contact information for the seizing authority, including a name and telephone number; (5) a statement that the owner or custodian is liable for the reasonable costs for the care of the animal; (6) notice of the right to voluntarily forfeit the animal to the seizing authority; and (7) notice of the right to file a petition within 10 days after the seizure or removal for the return of the animal in the District Court of the county in which the seizure or removal occurred.

The bill requires the seizing authority to make a reasonable attempt to provide notice to the owner of the animal if the person with custody of the animal at the time of seizure or removal is not the owner of the animal, or if no person has custody of the animal at the time of seizure or removal. This legislation repeals the provision of law regarding the circumstances under which an animal may be considered stray.

The owner or custodian of an animal seized or removed may petition the District Court for the return of the animal within 10 days after the seizure or removal. The petition must be served on the seizing authority. If the owner or custodian fails to file a petition within 10 days of the seizure or removal, the animal is considered forfeited to the seizing authority. The District Court must schedule a hearing within 14 days of the filing of a petition and at the hearing, must determine whether there is probable cause to believe that the animal was subject to cruelty. If probable cause is found, the District Court must order that the animal be forfeited to the seizing authority unless, within 5 days after the issuance of the order, the owner or custodian posts a bond for the reasonable costs of care for a 30-day period, in an amount determined by the court.

If a bond is posted, the District Court must order that a new bond in the same amount be posted every 30 days during the pendency of any criminal trial or appeal related to the seizure or removal of the animal. Failure to post a bond results in the forfeiture of the animal to the seizing authority. The seizing authority may draw funds equal to the costs of caring for the animal from a posted bond. On the final disposition on any animal-related charge, the unused portion of a bond posted must be returned to the person that posted the bond. The posting of a bond does not limit other civil or criminal remedies available to the seizing authority for costs not covered by the bond. The owner or custodian or the seizing

authority is authorized to petition the District Court at any time to adjust the amount of bond for good cause. A party filing the petition must provide notice of the filing to the other party.

Current Law: If an owner or custodian of an animal is convicted of an act of animal cruelty, a court may order the removal of the animal or any other animal at the time of conviction for the protection of the animal. 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. Animals possessed by a medical and scientific research facility may be removed only after review by and a recommendation from the Department of Health and Mental Hygiene, Center for Veterinary Public Health.

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 (1) enter the place where the animal is located and supply the animal with necessary food, water, and attention or (2) remove the animal if removal is necessary for the health of the animal. A person who enters a place to assist an animal under these circumstances is not liable for the entry. However, a person may not enter a private dwelling for these purposes.

A person who removes an animal under these circumstances must notify the animal's owner or custodian of the removal of the animal and any administrative remedies that may be available to the owner or custodian. 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.

State Expenditures: The Judiciary advises that the bill requires the posting and tracking of multiple bonds and a newly created process to allow for the withdrawal of funds from a posted bond. Since the Judiciary's computers systems do not allow for such a process, implementing the necessary programming changes requires approximately 748.8 hours at a cost of \$57,336 in fiscal 2016 only.

The Judiciary advises that it does not have data from which to make a projection on the number of additional hearings that may take place as a result of the bill.

Additional Information

Prior Introductions: None.

Cross File: SB 393 (Senator Raskin, *et al.*) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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min/kdm

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