HB 1463

Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1463 (Delegate Frush, *et al.*)
Environment and Transportation

Veterinary Practitioners - Animal Cruelty and Animal Fighting - Reporting

This bill requires a veterinarian to report in a timely manner (1) any suspected animal cruelty or (2) any involvement in animal fighting by any animal treated by the veterinarian, to the appropriate law enforcement or county animal control agency. The report must contain specified information. If a veterinarian fails to comply with the reporting requirement, the State Board of Veterinary Medical Examiners (SBVME) may suspend or revoke a veterinarian's license and censure or place the veterinarian on probation. A veterinarian who reports suspected animal cruelty or animal fighting in good faith, or who participates in a subsequent investigation, is immune from civil liability and criminal prosecution that results from the report or participation in the investigation.

Fiscal Summary

State Effect: SBVME and the District Court can handle the bill's requirements with existing resources. Revenues are not affected.

Local Effect: Enforcement can be handled with existing resources. Revenues are not affected.

Small Business Effect: Minimal. Existing veterinary medical practice standards already encourage reporting of suspected animal abuse, and SBVME advises that the vast majority of veterinarians already report suspected cases of abuse.

Analysis

Bill Summary: When making a report under the bill, a veterinarian must include (1) the name, age, and location of the animal; (2) the name and address of the animal's owner or

custodian; (3) the nature and extent of the suspected animal cruelty or animal fighting, including any evidence or information available to the veterinarian concerning possible previous instances of the cruelty or fighting; and (4) any other information that would help determine the cause of the cruelty or the identity of the person responsible for it.

Current Law:

State Board of Veterinary Medical Examiners: SBVME is an entity of the Maryland Department of Agriculture and is comprised of seven members appointed by the Governor, with the advice and consent of the Senate. Generally, SBVME establishes standards for practicing veterinary medicine and governs the profession's conduct and ethics rules. The board has the authority to adopt rules and regulations to enforce State law governing the licensing of veterinarians, including the authority to subpoena witnesses and compel the production of other documentary evidence when investigating complaints.

SBVME must adopt regulations *encouraging* a veterinarian to report suspected instances of animal cruelty, including suspected animal fighting, to a local law enforcement or county animal control agency. Under State law, a veterinarian is immune from any civil liability that results from any good faith reporting of suspected animal cruelty by any veterinary practitioner to a local law enforcement or county animal control agency. The immunity provision does not specifically refer to reports of "animal fighting."

Misdemeanor Animal Abuse/Neglect: A person is prohibited from abusing or neglecting an animal, which consists of overdriving or overloading an animal; depriving an animal of necessary sustenance; inflicting unnecessary suffering or pain on an animal; or causing, procuring, or authorizing such an act. If a person has custody or charge of an animal, as an owner or otherwise, the person is prohibited from unnecessarily failing to provide sufficient nutrition, necessary veterinary care, proper drink, air, space, shelter, or protection from the elements. These provisions do not apply to lawful hunting or lawful trapping.

A person who violates these provisions is guilty of a misdemeanor and is subject to maximum penalties of 90 days imprisonment and/or a $1,000 fine. As a condition of sentencing, the court may order a defendant to participate in and pay for psychological counseling. As a condition of probation, a court may prohibit a defendant from owning, possessing, or residing with an animal.

Felony Aggravated Animal Cruelty: A person may not intentionally mutilate, torture, cruelly beat, or kill an animal or cause or procure such an act. Except in the case of self-defense, a person may not intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit. A person who violates these provisions is guilty of the felony of aggravated cruelty to animals and is subject to maximum penalties of three years imprisonment and/or a $5,000 fine. As a condition of

probation, a court may prohibit a defendant from owning, possessing, or residing with an animal.

Felony Aggravated Animal Cruelty – Dogfighting: A person may not (1) use or allow a dog to be used in a dogfight or for baiting; (2) arrange or conduct a dogfight; (3) possess, own, sell, transport, or train a dog with the intent to use the dog in a dogfight or for baiting; or (4) knowingly allow premises under the person's control to be used for dogfighting or for baiting. A person who violates these provisions is guilty of a felony and is subject to maximum penalties of three years imprisonment and/or a $5,000 fine.

Felony Aggravated Animal Cruelty – Cockfighting: A person may not (1) use or allow the use of a fowl, cock, or other bird to fight with another animal; (2) possess, with an intent to unlawfully use, an implement of cockfighting or any tool designed to enhance a bird's fighting ability for use in a deliberate bird fighting event; (3) arrange or conduct an event where a fowl, cock, or other bird fights with another fowl, cock, or other bird; (4) possess, own, sell, transport, or train a bird with the intent to use the fowl, cock, or other bird in a cockfight; or (5) knowingly allow premises under the person's control to be used for a fowl, cock, or other bird to fight with another fowl, cock, or other bird. A person who violates these provisions is guilty of a felony and is subject to maximum penalties of three years imprisonment and/or a $5,000 fine.

The court may order a person convicted of any of these crimes to undergo and pay for psychological counseling. The court may also prohibit a defendant from owning, possessing, or residing with an animal as a condition of probation.

The offenses listed above do not include customary and normal veterinary and agricultural husbandry practices, including (1) dehorning, castration, tail docking, and limit feeding; (2) research conducted in accordance with the federal Animal Welfare Act or the federal Health Research Extension Act; (3) activities that may cause unavoidable physical pain to an animal, including food processing, pest elimination, animal training, and hunting, if the person performing the activity uses the most humane method reasonably available; or (4) normal human activities in which the infliction of pain to an animal is purely incidental and unavoidable.

Background: The Maryland State Commission on Criminal Sentencing Policy advises that, in fiscal 2016, five individuals were convicted of misdemeanor animal abuse or neglect, and three individuals were convicted of aggravated animal abuse in the circuit courts.

The Department of Public Safety and Correctional Services advises that, in fiscal 2016, there were 55 probation intakes for animal cruelty violations. On January 1, 2016, the Federal Bureau of Investigation began collecting detailed information on animal cruelty offenses for its comprehensive national crime database. As a specific category in the

Uniform Crime Reporting Program, specified animal cruelty offenses can now be tracked over time.

Additional Information

Prior Introductions: SB 722 of 2016, a bill with similar provisions, received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 1586, was referred to the House Rules and Executive Nominations Committee and had no further action taken on it.

Cross File: None.

Information Source(s): Baltimore City; Caroline, Montgomery, and Prince George's counties; City of Bowie; Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; Department of State Police; Department of Public Safety and Correctional Services; Department of Legislative Services

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