

Department of Legislative Services  
Maryland General Assembly  
2008 Session

FISCAL AND POLICY NOTE

House Bill 378

(Delegate Kipke, *et al.*)

Judiciary

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**Criminal Law - Abuse or Neglect of Animals and Aggravated Cruelty to Animals  
- Increased Penalties**

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This bill increases the penalties for the crime of abuse or neglect of an animal from a maximum of 90 days imprisonment and/or a fine of \$1,000 to a maximum of 180 days imprisonment and/or a fine of \$2,000. For the crime of aggravated cruelty to animals, the penalties increase from up to three years imprisonment and/or a fine of \$5,000 to imprisonment for not less than one year and not exceeding five years and/or a maximum fine of \$10,000. For the crime of aggravated cruelty to animals, the court may not suspend any part of the mandatory minimum sentence of one year. The court must order a defendant convicted of either of these crimes to participate in and pay for psychological counseling.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

**Local Effect:** Minimal increase in revenues and expenditures due to the bill's penalty provisions.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** A person is prohibited from 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, that person is prohibited from unnecessarily failing to provide sufficient nutrition, necessary veterinary care, proper drink, air, space, shelter, or protection from the elements. A person who violates this provision 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 convicted defendant to participate in and pay for psychological counseling.

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 sentencing, the court may order a person convicted of this crime to participate in and pay for psychological counseling.

**Background:** According to the Humane Society for the United States (HSUS) every state has a law against animal cruelty. Some states treat animal cruelty as a misdemeanor while many designate such crimes as felonies. Forty-three states have designated certain acts of animal cruelty as felonies. Some states restrict felonies to cruelty against zoo or companion animals. Twenty-eight states either mandate or authorize psychological counseling for defendants convicted of animal cruelty charges. Maryland is one of the states that authorizes a court to order a defendant to enter into and pay for psychological counseling. Thirteen of the 28 states mandate a person convicted of animal cruelty to undergo psychological counseling. Fifteen states authorize imprisonment of five years or more for aggravated or other acts of animal cruelty. Eighteen states establish maximum fines of \$10,000 or greater for these animal cruelty acts. **Exhibit 1** shows the states that mandate counseling, and establish fines of \$10,000 or greater or imprisonment terms of five years or greater for aggravated or other acts of animal cruelty.

Six states that mandate psychological counseling (Maine, Nevada, New Jersey, New Mexico, Texas, and Utah, italicized in the above chart) do so for juveniles only.

In Tennessee, a person convicted of aggravated cruelty to animals must serve a nine month minimum mandatory prison sentence. No suspension or probation is permitted until nine months are served. Psychological counseling for offenders is also mandatory.

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**Exhibit 1**  
**State Penalties/Animal Cruelty Acts**

<u><b>Mandatory Counseling</b></u>	<u><b>Prison Terms of At Least 5 Years</b></u>	<u><b>Fines of At Least \$10,000</b></u>
California	Alabama	Arizona
Florida	Colorado	California
Indiana	Florida	Colorado
Iowa	Iowa	Florida
Kansas	Louisiana	Georgia
<i>Maine</i>	Maine	Illinois
<i>Nevada</i>	Nebraska	Indiana
<i>New Jersey</i>	Nevada	Louisiana
<i>New Mexico</i>	Oklahoma	Maine
Tennessee	Oregon	Michigan
<i>Texas</i>	Pennsylvania	Minnesota
<i>Utah</i>	South Carolina	Nebraska
West Virginia	Washington	New Jersey
	West Virginia	Oregon
	Wisconsin	Pennsylvania
		Texas
		Washington
		Wisconsin

Source: Humane Society of the United States

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**State Revenues:** General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

**State Expenditures:** General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to people being committed to Division of Correction (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. According to DOC, six people were incarcerated for this crime in fiscal 2007 and the average sentence length was about 22 months.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC

inmate (including medical care and variable costs) is \$526 per month. Excluding medical care, the average variable costs total \$148 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2009 are estimated to range from \$19 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

**Local Expenditures:** Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Humane Society of the United States, Department of Legislative Services

**Fiscal Note History:** First Reader - January 29, 2008  
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Analysis by: Karen D. Morgan

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510