

SENATE BILL 877

E1, E2
SB 760/21 – JPR

2lr1157
CF 2lr1158

By: **Senator Waldstreicher**

Introduced and read first time: February 7, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Animal Cruelty – Petition for Costs for Care of Seized Animal**

3 FOR the purpose of establishing procedures to authorize a certain officer or agent of a
4 humane society or a police officer or certain public official to file a petition to recover
5 reasonable costs of care from the owner or custodian of a certain seized animal; and
6 generally relating to animal cruelty.

7 BY repealing and reenacting, with amendments,
8 Article – Criminal Law
9 Section 10–615
10 Annotated Code of Maryland
11 (2021 Replacement Volume and 2021 Supplement)

12 BY adding to
13 Article – Criminal Law
14 Section 10–615.1
15 Annotated Code of Maryland
16 (2021 Replacement Volume and 2021 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Criminal Law**

20 10–615.

21 (a) If an owner or custodian of an animal is convicted of an act of animal cruelty,
22 the court may order the [removal] **SEIZURE** of the animal or any other animal at the time
23 of conviction for the protection of the animal.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) An officer or authorized agent of a humane society, or a police officer or
2 other public official required to protect animals may seize an animal if necessary to protect
3 the animal from cruelty.

4 (2) (i) An animal that a medical and scientific research facility
5 possesses may be [removed] **SEIZED** under this subsection only after review by and a
6 recommendation from the Maryland Department of Health, Center for Veterinary Public
7 Health.

8 (ii) The Maryland Department of Health shall:

9 1. conduct an investigation within 24 hours after receiving a
10 complaint; and

11 2. within 24 hours after completing the investigation, report
12 to the State's Attorney for the county in which the facility is situated.

13 (c) (1) If an animal is impounded, yarded, or confined without necessary food,
14 water, or proper attention, is subject to cruelty, or is neglected, an officer or authorized
15 agent of a humane society, a police officer, another public official required to protect
16 animals, or any invited and accompanying veterinarian licensed in the State, may:

17 (i) enter the place where the animal is located and supply the
18 animal with necessary food, water, and attention; or

19 (ii) [remove] **SEIZE** the animal if [removal] **SEIZURE** is necessary
20 for the health of the animal.

21 (2) A person who enters a place under paragraph (1) of this subsection is
22 not liable because of the entry.

23 (d) (1) A person who [removes] **SEIZES** an animal under subsection (c) of this
24 section shall notify the animal's owner or custodian **BY PERSONAL SERVICE OR**
25 **CERTIFIED MAIL WITHIN 24 HOURS** of:

26 (i) the [removal] **SEIZURE**; and

27 (ii) any administrative remedies that may be available to the owner
28 or custodian.

29 (2) If an administrative remedy is not available, the owner or custodian
30 may file a petition for the return of the animal in the District Court of the county in which
31 the [removal] **SEIZURE** occurred within 10 days after the [removal] **SEIZURE**.

32 (e) An animal is considered a stray **AND WILL BE FORFEITED TO A PERSON**
33 **WHO IS AUTHORIZED TO SEIZE THE ANIMAL** if:

1 (1) an owner or custodian of the animal was notified under subsection (d)
2 of this section and failed to file a petition within 10 days after [removal] SEIZURE; or

3 (2) the owner or custodian of the animal is unknown and cannot be
4 ascertained by reasonable effort for [20 days] 72 HOURS to determine the owner or
5 custodian.

6 (f) This section does not allow:

7 (1) entry into a private dwelling; or

8 (2) [removal of a farm animal] without the prior recommendation of a
9 veterinarian licensed in the State, SEIZURE OF:

10 (I) LIVESTOCK, AS DEFINED BY § 1-101 OF THE AGRICULTURE
11 ARTICLE;

12 (II) POULTRY, AS DEFINED BY § 1-101 OF THE AGRICULTURE
13 ARTICLE; OR

14 (III) A DOG THAT IS ACTIVELY ENGAGED IN LIVESTOCK HERDING
15 OR GUARDING.

16 (g) In Baltimore County, the Baltimore County Department of Health, Division
17 of Animal Control or an organization that the Baltimore County government approves shall
18 enforce this section.

19 **10-615.1.**

20 (A) IN THIS SECTION, "OWNER" MEANS A PERSON WHO CAN PROVE LEGAL
21 TITLE TO OR OWNERSHIP OF AN ANIMAL AT ISSUE ON THE DATE OF THE SEIZURE.

22 (B) (1) IF AN ANIMAL IS SEIZED UNDER § 10-615 OF THIS SUBTITLE AND
23 THE OWNER HAS FILED A PETITION FOR RETURN OF THE ANIMAL, AN OFFICER OR
24 AUTHORIZED AGENT OF A HUMANE SOCIETY, OR A POLICE OFFICER OR ANY OTHER
25 PUBLIC OFFICIAL REQUIRED TO PROTECT ANIMALS WHO REPRESENTS THE SEIZING
26 PERSON, MAY FILE A PETITION TO JOIN A PROCEEDING CONDUCTED UNDER §
27 10-615(D)(2) OF THIS SUBTITLE FOR THE REASONABLE COSTS OF CARING FOR THE
28 ANIMAL, INCLUDING THE PROVISION OF FOOD, WATER, SHELTER, AND MEDICAL
29 CARE.

30 (2) A PETITION FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION
31 SHALL BE FILED NOT LESS THAN 10 DAYS BUT NOT MORE THAN 30 DAYS AFTER THE

1 SEIZURE OF AN ANIMAL UNDER § 10-615 OF THIS SUBTITLE.

2 (3) WITHIN 7 DAYS AFTER FILING A PETITION UNDER THIS
3 SUBSECTION, THE PETITIONER SHALL SERVE A COPY OF THE PETITION ON THE
4 OWNER OR CUSTODIAN OF THE ANIMAL BY PERSONAL SERVICE OR BY REGISTERED
5 MAIL TO:

6 (I) THE OWNER'S OR CUSTODIAN'S MAILING ADDRESS;

7 (II) THE PLACE OF BUSINESS OF THE OWNER'S OR CUSTODIAN'S
8 COUNSEL OF RECORD; OR

9 (III) IF THE OWNER OR CUSTODIAN IS DETAINED PRETRIAL, THE
10 DETENTION FACILITY WHERE THE OWNER OR CUSTODIAN IS LOCATED.

11 (C) ON RECEIPT OF A PETITION FILED UNDER § 10-615(D)(2) OF THIS
12 SUBTITLE OR SUBSECTION (B)(1) OF THIS SECTION, THE COURT SHALL SET A DATE
13 FOR A HEARING TO DETERMINE:

14 (1) WHETHER THE SEIZURE OF THE ANIMAL WAS WARRANTED;

15 (2) WHETHER THE CONTINUED POSSESSION BY THE PETITIONER IS
16 WARRANTED;

17 (3) THE RESPONSIBILITY OF THE OWNER OR CUSTODIAN FOR THE
18 REASONABLE COSTS OF CARE FOR THE SEIZED ANIMAL; AND

19 (4) WHETHER THE OWNER OR CUSTODIAN MAY BE ALLOWED TO OWN
20 OR POSSESS A NEW ANIMAL DURING THE PENDING PROCEEDING AND UNTIL THE
21 DISPOSITION OF ANY CRIMINAL CHARGES RELATING TO THE SEIZURE.

22 (D) (1) A HEARING UNDER SUBSECTION (C) OF THIS SECTION SHALL BE
23 SCHEDULED NOT LESS THAN 14 DAYS BUT NOT MORE THAN 21 DAYS FROM THE
24 SERVICE OF THE PETITION.

25 (2) WITHIN 7 DAYS AFTER THE SCHEDULING OF THE HEARING DATE,
26 A PETITIONER SHALL SERVE NOTICE OF THE HEARING DATE ON THE OWNER OR
27 CUSTODIAN OF THE SEIZED ANIMAL IN THE MANNER DESCRIBED UNDER
28 SUBSECTION (B)(3) OF THIS SECTION.

29 (E) AT THE HEARING UNDER SUBSECTION (C) OF THIS SECTION, THE
30 PETITIONER SHALL DEMONSTRATE BY A PREPONDERANCE OF THE EVIDENCE:

1 (1) THE AMOUNT OF REASONABLE COSTS OF CARE FOR THE SEIZED
2 ANIMAL;

3 (2) THAT THE SEIZURE OF THE ANIMAL WAS WARRANTED; AND

4 (3) THAT THE CONTINUED POSSESSION OF THE ANIMAL BY THE
5 PETITIONER IS WARRANTED.

6 (F) DURING A HEARING UNDER SUBSECTION (C) OF THIS SECTION, THE
7 OWNER OR CUSTODIAN OF THE SEIZED ANIMAL SHALL HAVE THE OPPORTUNITY TO:

8 (1) OBJECT TO THE EVIDENCE PRESENTED BY THE PETITIONER; AND

9 (2) REQUEST AN ALTERNATIVE DISPOSITION OF THE ANIMAL.

10 (G) (1) (I) NOT LATER THAN 5 DAYS AFTER THE COMMENCEMENT OF A
11 HEARING UNDER § 10-615(D)(2) OF THIS SUBTITLE OR SUBSECTION (B)(1) OF THIS
12 SECTION, THE COURT SHALL ISSUE AN ORDER GRANTING OR DENYING THE
13 PETITIONS.

14 (II) REASONABLE COSTS OF CARE FOR A SEIZED ANIMAL SHALL
15 BE LIMITED TO \$15 PER DAY PER ANIMAL, IN ADDITION TO NECESSARY MEDICAL
16 CARE, AS DETERMINED BY A LICENSED VETERINARIAN AND DOCUMENTED BY
17 INVOICES.

18 (III) NECESSARY MEDICAL CARE MAY NOT EXCEED \$50 PER DAY
19 PER ANIMAL.

20 (IV) IF THE COURT AWARDS PAYMENT OF THE REASONABLE
21 COST OF CARE OF THE SEIZED ANIMAL TO THE PETITIONER, THE COURT SHALL:

22 1. ORDER THE OWNER OR CUSTODIAN OF THE SEIZED
23 ANIMAL TO PAY ANY FILING FEES PAID BY THE PETITIONER TO FILE THE PETITION
24 UNDER SUBSECTION (B) OF THIS SECTION AND THE AMOUNT OF REASONABLE COSTS
25 OF CARE; AND

26 2. INFORM THE OWNER OR CUSTODIAN OF THE ANIMAL
27 OF THE RIGHT TO PETITION FOR AN ADJUSTMENT OF THE AMOUNT OF COSTS FOR
28 CARE UNDER PARAGRAPH (5) OF THIS SUBSECTION.

29 (V) IF THE COURT FINDS THAT THE SEIZURE OF AN ANIMAL WAS
30 WARRANTED, THE COURT MAY PROHIBIT THE OWNER OR CUSTODIAN OF THE
31 ANIMAL FROM OWNING OR POSSESSING A NEW ANIMAL UNTIL THE CONCLUSION OF

1 ANY CRIMINAL PROCEEDINGS RELATED TO THE SEIZURE OF THE ANIMAL.

2 (2) (I) THE COURT ORDER FOR FILING FEES AND COSTS OF CARE
3 SHALL INCLUDE A SCHEDULE OF MONTHLY PAYMENTS TO BE PAID BY THE OWNER
4 OR CUSTODIAN TO THE CLERK OF THE COURT BEGINNING 30 DAYS AFTER THE
5 INITIAL PAYMENT DESIGNATED IN THE ORDER.

6 (II) THE PETITIONER SHALL BE ELIGIBLE TO DRAW FUNDS
7 HELD BY THE CLERK OF THE COURT TO REIMBURSE ITS ACTUAL COSTS INCURRED
8 FOR CARE OF THE ANIMAL.

9 (III) PAYMENTS SHALL CONTINUE UNTIL TERMINATION UNDER
10 SUBSECTION (I) OF THIS SECTION.

11 (IV) UNLESS THE PROCEEDING INVOLVES NOT MORE THAN TWO
12 ANIMALS AND THE ONLY CHARGES ARE NEGLECT, THE ABILITY TO PAY BY THE
13 OWNER OR CUSTODIAN MAY NOT AFFECT THE COURT'S DETERMINATION AS TO THE
14 AMOUNT OF THE REASONABLE COSTS OF CARE.

15 (3) (I) NOT LATER THAN 14 DAYS AFTER SERVICE OF THE COURT
16 ORDER, THE OWNER OR CUSTODIAN SHALL BEGIN TO MAKE PAYMENTS TO THE
17 CLERK OF THE COURT IN ACCORDANCE WITH THE COURT ORDER.

18 (II) THE OWNER OR CUSTODIAN SHALL CONTINUE TO MAKE
19 PAYMENTS AS REQUIRED BY THE COURT ORDER UNTIL TERMINATION UNDER
20 SUBSECTION (I) OF THIS SECTION.

21 (4) IF AN OWNER OR A CUSTODIAN FAILS TO TIMELY PAY ANY OF THE
22 AMOUNTS ORDERED WITHIN 30 CALENDAR DAYS:

23 (I) THE SEIZED ANIMAL FOR WHICH REASONABLE COSTS OF
24 CARE WERE ORDERED SHALL BE AUTOMATICALLY FORFEITED, BY OPERATION OF
25 LAW, TO THE PETITIONER; AND

26 (II) THE PETITIONER SHALL OBTAIN ALL RIGHTS AND
27 PRIVILEGES IN AND OVER THE ANIMAL.

28 (5) (I) THE COURT, ON MOTION BY A PETITIONER OR THE OWNER
29 OR CUSTODIAN, AND AFTER NOTICE AND A HEARING CONSISTENT WITH THIS
30 SECTION, MAY ADJUST THE AMOUNT OF COSTS FOR CARE.

31 (II) PAYMENTS BY THE OWNER OR CUSTODIAN SHALL BE
32 SUSPENDED UNTIL THE MOTION IS DECIDED.

1 **(H) (1) (I) PAYMENT FOR REASONABLE COSTS OF CARE BY THE OWNER**
2 **OR CUSTODIAN OF THE SEIZED ANIMAL DOES NOT PREVENT THE PETITIONER FROM**
3 **PROVIDING NECESSARY MEDICAL CARE, INCLUDING EUTHANIZING THE SEIZED**
4 **ANIMAL.**

5 **(II) THE PETITIONER MAY EUTHANIZE A SEIZED ANIMAL IF THE**
6 **PETITIONER OBTAINS A WRITTEN OPINION FROM A LOCAL LICENSED VETERINARIAN**
7 **WHO STATES IT IS NECESSARY TO ALLEVIATE THE ANIMAL'S SUFFERING.**

8 **(III) UNLESS IMMEDIATE EUTHANASIA IS CONSIDERED**
9 **NECESSARY BY A VETERINARIAN UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
10 **REASONABLE NOTICE SHALL BE PROVIDED TO THE OWNER OR CUSTODIAN BEFORE**
11 **THE ANIMAL IS EUTHANIZED.**

12 **(2) PAYMENT OF REASONABLE COSTS OF CARE UNDER SUBSECTION**
13 **(G) OF THIS SECTION MAY NOT PREVENT THE PETITIONER FROM TRANSFERRING**
14 **THE SEIZED ANIMAL TO ANOTHER FACILITY OR CARETAKER IF THE COURT IS**
15 **NOTIFIED OF THE TRANSFER IN A TIMELY MANNER.**

16 **(I) (1) A COURT ORDER FOR COSTS SHALL TERMINATE IF:**

17 **(I) THE OWNER OF THE ANIMAL SURRENDERS ALL RIGHTS TO**
18 **THE ANIMAL;**

19 **(II) THE ANIMAL IS FORFEITED TO THE PETITIONER UNDER §**
20 **10-615(E) OF THIS SUBTITLE; OR**

21 **(III) THE ANIMAL DIES OR IS EUTHANIZED.**

22 **(2) AFTER TERMINATION OF THE ORDER, ANY UNUSED FUNDS**
23 **RETAINED BY THE CLERK OF THE COURT SHALL BE RETURNED TO THE OWNER OR**
24 **CUSTODIAN OF THE ANIMAL.**

25 **(J) A PETITIONER SHALL BE IMMUNE FROM CIVIL LIABILITY FOR DAMAGES**
26 **ALLEGED BY AN OWNER OR A CUSTODIAN CONCERNING THE CARE PROVIDED BY THE**
27 **PETITIONER, EXCEPT FOR INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE**
28 **RESULTING IN THE DEATH OF THE SEIZED ANIMAL.**

29 **(K) IF THE OWNER OR CUSTODIAN OF THE SEIZED ANIMAL IS ACQUITTED OF**
30 **ALL CRIMINAL CHARGES AND IF ALL COSTS ORDERED TO BE PAID UNDER THIS**
31 **SECTION HAVE BEEN TIMELY PAID, THE OWNER OR CUSTODIAN OF THE ANIMAL IS**
32 **ENTITLED TO:**

1 **(1) TAKE REPOSSESSION OF THE ANIMAL; AND**

2 **(2) A RETURN OF ALL REASONABLE COSTS OF CARE PAID BY THE**
3 **OWNER OR CUSTODIAN.**

4 **(L) IF THE OWNER OR CUSTODIAN OF THE SEIZED ANIMAL IS CONVICTED OF**
5 **ANY CRIMINAL CHARGES BROUGHT IN RELATION TO A SEIZURE UNDER § 10-615 OF**
6 **THIS SUBTITLE, ANY ANIMALS SEIZED SHALL BE FORFEITED.**

7 **(M) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT AN OFFICER OR**
8 **AUTHORIZED AGENT OF A HUMANE SOCIETY, OR A POLICE OFFICER OR OTHER**
9 **PUBLIC OFFICIAL REQUIRED TO PROTECT ANIMALS, FROM SEEKING RESTITUTION**
10 **AS PART OF SENTENCING IF A PERSON DOES NOT SEEK COSTS OF CARE UNDER THIS**
11 **SECTION.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2022.