

Maryland Animal Cruelty Laws

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Introduction

Maryland’s criminal animal protection laws can be found in the Criminal Code and the Agricultural Code. Title 10 of the Criminal Code, “Crimes Against Public Health, Conduct, and Sensibilities” consolidates most of these statutes in § 10-601 through § 10-623. These sections consist of the general cruelty statutes, sexual acts against animals, animal fighting statutes, and narrower statutes meant to protect specific types of animals. General animal cruelty is set out in § 10-604, while aggravated animal cruelty is § 10-606. Title 4 of the Agriculture Code, “Regulation of Livestock, Poultry Products, and Eggs” contains § 4-123.1, a statute addressing humane slaughter of livestock. These statutes address general animal cruelty, proper care of and treatment for animals, sexual crimes against animals, animal fighting, abandoning animals, and enforcement of these laws. Under these statutes, an animal is “any creature except a human being”.

Sexual acts against animals were formerly characterized as “unnatural or perverted sexual practice[s]” and addressed by Criminal Code §3-322. The law has been amended to include sexual acts against animals in §10-606 under general aggravated animal cruelty and removing §3-322.

While Maryland has a number of statutes protecting animals, there is very little case law regarding prosecutions and many of the cases available were pursued under prior versions of the statute. Where prior versions of the code are relevant, they are noted below.

Overview of Statutory Provisions and Case Law

Definitions: MD. CODE ANN., CRIM. LAW § 10-601

Consolidated Animal Cruelty Laws: MD. CODE ANN., CRIM. LAW §§ 10-601 – 10-623

Inhumane slaughter of livestock: MD. CODE ANN., AGRIC. § 4-123.1

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Crimes Relating to Animals Title of Criminal Law Code

Criminal Law

Title 10. Crimes Against Public Health, Conduct, and Sensibilities

Subtitle 6. Crimes Relating to Animals

DEFINITIONS AND INTENT OF LAWS

§ 10-601. Definitions

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Animal” means a living creature except a human being.
- (c) (1) “Cruelty” means the unnecessary or unjustifiable physical pain or suffering caused or allowed by an act, omission, or neglect.
(2) “Cruelty” includes torture and torment.
- (d) “Humane society” means a society or association incorporated in Maryland for the prevention of cruelty to animals.

Applicable Case Law:

Hurd v. State, 988 A.2d 1143 (Md. App., 2010).

The court held that under §10-601(c)(1), cruelty is defined as unnecessary or unjustifiable physical pain or suffering caused by an act. Since “it can be inferred, legitimately” that Harley the dog suffered pain after being crippled by the defendant’s first gunshot, and since nothing in the record suggests that the shooting was justified or necessary, the defendant’s shooting of Harley qualified as cruel.⁴

The court relied on the Hurd precedent, and stated that “[t]he evidence and testimony of appellant stabbing the dog several times and slashing her throat was sufficient for any rational trier of fact to infer that this conduct fell under intentionally mutilating, torturing, cruelly beating, or cruelly killing an animal.”⁵

Rohrer v. Humane Soc’y of Wash. Cty., 454 Md. 1 (Md. App., 2017)

The court discussed the implications of §10-601(d) in detail. The court held that since the criminal statutes concerning animal cruelty delegate certain powers to humane societies, humane society officers have the power to arrest “anyone ‘committing a misdemeanor that involves cruelty to an animal,’” because the statute delegates the power to carry out anti-cruelty laws to these private entities.⁶

§ 10-602. Legislative intent

It is the intent of the General Assembly that each animal in the State be protected from intentional cruelty, including animals that are:

- (1) privately owned;
- (2) strays;

⁴ *Hurd v. State*, 190 Md. App. 479, 493 (2008).

⁵ *Paysinger v. State*, 2017 Md. App. LEXIS 1205, 23-24 (2017).

⁶ *Rohrer v. Humane Soc’y of Wash. Cty.*, 454 Md. 1, 10 (2017).

- (3) domesticated;
- (4) feral;
- (5) farm animals;
- (6) corporately or institutionally owned; or
- (7) used in privately, locally, State, or federally funded scientific or medical activities.

Applicable Case Law:

Pilchard v. State, 2020 Md. App. LEXIS 703 (2020).

This is an unreported opinion so it may not be cited as precedent or persuasive authority. (Md. Rule 1-104).

The court provides an analysis of “intentional” as used in §10-602. Appellant argued that although her horses had experienced pain and suffering, based on evidence of the state of the dead and dying horses found in her charge, the State had failed to prove that Appellant had the requisite intent to neglect or abuse the horses. The court held that the statutory provisions do not require a specific intent. Although the statute states that animals must be protected from “intentional cruelty” the court held that the General Assembly went on to “not include a specific intent as an element of any of those crimes” for §10-602(1)-(7).⁷

§ 10-603. Application of Sections 10-601 through 10-608

Sections 10-601 through 10-608 and 10-626 of this subtitle do not apply to:

- (1) customary and normal veterinary and agricultural husbandry practices including dehorning, castration, tail docking, and limit feeding;
- (2) research conducted in accordance with protocols approved by an animal care and use committee, as required under the federal Animal Welfare Act or the federal Health Research Extension Act;
- (3) an activity 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.

Applicable Case Law:

Cohn v. Maryland-National Capital Park, 2017 Md. App. LEXIS 1058 (2017)

This is an unreported opinion so it may not be cited as precedent or persuasive authority. (Md. Rule 1-104).

The court held that §10-603(3) does not define “cruelty” but rather excludes certain activities like hunting from the application of animal cruelty laws, and clarified that this clause is only concerned with the methods used by any person performing any of the applicable activities. The court decided that even if evidence proved that the Pilot Program does not implement the most humane methods reasonably available, such proof would not be enough to show a violation of Maryland’s animal cruelty laws because the activity is explicitly excluded from animal cruelty statutes by §10-603(3).

⁷ *Pilchard v. State*, 2020 Md. App. LEXIS 703, 2-3 (2020).

Taub v. State, 463 A.2d 819 (Md. Ct. App., 1983).⁸

Dr. Taub, the chief scientific investigator in charge of animal research at the Institute for Behavioral Research (IBR), was charged with seventeen counts of violating the Maryland animal cruelty statute. Dr. Taub was creating stroke-like conditions in seventeen monkeys by eliminating all feeling surgically in a limb of each of the monkeys. The IBR received federal funding and was randomly inspected for compliance with the Federal Animal Welfare Act. Dr. Taub was convicted of six charges of failing to provide proper veterinary care, but only one of these charges survived the original appeal to the circuit court.

The court in this case determined that the statute was not applicable to Dr. Taub or any laboratories complying with federal law because the legislature apparently foresaw that some human ventures would require pain to animals and that the legislature was aware of the Animal Welfare Act upon drafting the cruelty statute. Thus, Dr. Taub's case under the old version of the cruelty statute aided in creating the new version, specifically subsection two.

ABUSE AND NEGLECT

§ 10-604. Abuse or neglect of animal

- (a) A person may not:
- (1) overdrive or overload an animal;
 - (2) deprive an animal of necessary sustenance;
 - (3) inflict unnecessary suffering or pain on an animal;
 - (4) cause, procure, or authorize an act prohibited under item (1), (2), or (3) of this subsection;
- or
- (5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with:
- (i) nutritious food in sufficient quantity;
 - (ii) necessary veterinary care;
 - (iii) proper drink;
 - (iv) proper air;
 - (v) proper space;
 - (vi) proper shelter; or
 - (vii) proper protection from the weather.
- (b) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both.
- (2) As a condition of sentencing, the court may order a defendant convicted of violating this section to:
- (i) participate in and pay for psychological counseling; and
 - (ii) pay, in addition to any other fines and costs, all reasonable costs incurred in removing, housing, treating, or euthanizing an animal confiscated from the defendant.
- (3) As a condition of probation, the court may prohibit a defendant from owning, possessing,

⁸ This decision was made under the previous 1975 version of cruelty law when the exemptions for prosecution did not have an independent statute, but was combined with the general cruelty statute. The statute read in relevant part: “[N]o person shall be liable for criminal prosecution for normal human activities to which the infliction of pain to an animal is purely incidental and unavoidable.”

or residing with an animal.

Applicable Case Law:

Silver v. State, 23 A.3d 867 (Md. App., 2011).

Donna and Hilton Silver were charged with three counts of animal cruelty under § 604(a)(5) after an Animal Control Officer responded to a neighbor’s call and found three horses severely malnourished. All of the horses were removed from defendant’s care and one of them, named Calypso, had to be euthanized. The defendants entered Alford guilty pleas as to the animal cruelty count regarding Calypso and the state dropped the other two charges. The defendants then filed a timely appeal for a de novo trial. At trial, the court found the defendants guilty of animal cruelty regarding Calypso and ordered the defendants to pay restitution to the veterinarian who euthanized Calypso and the farm that was housing the two remaining horses.

The Court of Appeals determined that while restitution is appropriate in an animal cruelty case, the defendants could not be forced to pay restitution for the other two horses, as the animal cruelty charges for those horses were not pursued. Additionally, the court determined that the prosecution can introduce evidence of cruelty to other animals in a cruelty case if the neglect or cruelty “was intertwined and part of the same criminal episode” as the case at bar.

Cohhn v. Maryland-National Capital Park, 2017 Md. App. LEXIS 1058 (2017)

This is an unreported opinion so it may not be cited as precedent or persuasive authority. (Md. Rule 1-104).

The court held that bow hunting of deer under a new Pilot Program is not a violation of anti-cruelty laws under §10-604(a) if the bow hunting at issue “complies with the laws and regulations intended to ensure the humaneness of the activity.”⁹ §10-604(a) must be analyzed if a hunter does not use the most humane method reasonably available to kill animals, but here the court states that the Pilot Program records do not indicate that the program will be conducted in a way that violates applicable hunting laws and regulations. The court also reasoned that since the General Assembly’s legislative history indicates that hunting is an important and traditional activity, hunters have supported wildlife management and conservation, hunting organizations help wildlife managers and enforcement officers manage populations and help fund the FWS, and hunting is an environmentally acceptable activity, these considerations must be factored into the analysis of whether the suffering or pain of the animals is unnecessary and here they found that the pain and suffering was necessary to allow for these activities.

Pilchard v. State, 2020 Md. App. LEXIS 703 (2020).

This is an unreported opinion so it may not be cited as precedent or persuasive authority. (Md. Rule 1-104).

The court held that since the General Assembly did not specifically include an intent element in each of the §604 subsections, “general intent is ordinarily implied.”¹⁰ Appellant argued that although her horses had experienced pain and suffering, based on evidence of the state of the dead and dying horses found in her charge, the State had failed to prove that Appellant had the requisite intent to neglect or abuse the horses. The court held that the statutory provisions do not require specific intent.

⁹ *Cohhn v. Maryland-National Capital Park*, 2017 Md. App. LEXIS 1058, 11 (2017).

¹⁰ *United States v. Martinez*, 49 F.3d 1398, 1401 (1995).

Collins v. Tri-State Zoological Park of W. Maryland, Inc., 514 F. Supp. 3d 773 (D. Md. 2021)
In this case, PETA brought a claim against the defendants, who operate a roadside zoo, for mistreating and neglecting approximately 110 animals. PETA alleged that the animals are not provided with proper nutrition or clean water and are subjected to unsanitary living conditions, dangerous enclosures, and a lack of enrichment and socialization opportunities. PETA argued that because visitors have to bear witness to these conditions that it violates Maryland's cruelty to animals statute and furthermore constitutes a public nuisance under Maryland common law. Defendants argued Plaintiffs cannot show they have a "legally protected interest" to bring a public nuisance claim. The court has denied a motion to dismiss filed against PETA (People for the Ethical Treatment of Animals) in a public nuisance claim, stating that at this early stage, it cannot conclusively determine that PETA has not suffered a "special injury" different from that of the general public, allowing the case to proceed with the possibility of certification to the Maryland Court of Appeals for further guidance. The court remains concerned about the viability of the public nuisance claim but believes that further factual development is needed to address this issue. (Note: The case ended up proceeding to the district court, which confirmed its standing).

ANIMAL FIGHTING AND AGGRAVATED CRUELTY

§ 10-605. Attending dogfight or cockfight

- (a) A person may not knowingly attend a deliberately conducted dogfight as a spectator
- (b) A person may not knowingly attend as a spectator a deliberately conducted event that uses a fowl, cock, or other bird to fight with another fowl, cock, or other bird.
- (c) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$2,500 or both.
(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

No Applicable Case Law

§ 10-606. Aggravated cruelty to animals – in general

- (a)(1) In this section, "sexual contact with an animal" means any act:
 - (i) involving:
 - (1) a person touching the sex organ or anus of an animal;
 - (2) contact between:
 - (A) the sex organ or anus of a person and the mouth, sex organ, or anus of an animal; or
 - (B) the sex organ or anus of an animal, and the mouth, sex organ, or anus of a person; or
 - (3) insertion of:
 - (A) any part of the body of a person into the opening of the vagina or anus of an animal;
 - (B) any part of an animal's body into the opening of the vagina or anus of a person; or
 - (C) any object into the opening of the vagina or anus of an animal; and

(ii) committed for the purpose of sexual arousal, sexual gratification, abuse, or financial gain.

(2) “Sexual contact with an animal” does not include:

- (i) an accepted veterinary practice;
- (ii) artificial insemination of an animal for reproductive purposes;
- (iii) accepted animal husbandry practices, including:
 - (1) grooming;
 - (2) raising;
 - (3) breeding;
 - (4) assisting with the birthing process; or
 - (5) any other activity that provides care for an animal; or
- (iv) generally accepted practices relating to the judging of breed confirmation.

(b) A person may not:

(1) Intentionally:

- (i) Mutilate an animal;
- (ii) Torture an animal;
- (iii) Cruelly beat an animal;
- (iv) Cruelly kill an animal; or
- (v) Engage in sexual contact with an animal;

(2) cause, procure, or authorize an act prohibited under (1) of this subsection; or

(3) except in the case of self-defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.

(c)(1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may:

(i) order a defendant convicted of violating this section to:

(1) participate in and pay for psychological counseling; and

(2) pay, in addition to any other fines and costs, all reasonable costs incurred in removing, housing, treating, or euthanizing an animal confiscated from the defendant; and

(ii) prohibit a defendant from owning, possessing, or residing with an animal for a specified period of time.

Applicable Case Law:

Romig v. Montgomery Cnty., Civil Action No. TDC-21-1475, 2023 U.S. Dist. LEXIS 57932 (2023).

The court held that Maryland’s definition of animal cruelty is not constitutionally vague, citing precedent from *In re William G.*¹¹ and *Bowers v. State.*¹² In addition the court pointed out that additional provisions under Maryland’s “Crimes Relating to Animals” Subtitle further define the term “cruelty”.¹³ Ultimately, the court found that Romig had not stated a plausible claim that

¹¹ The court found that the Maryland animal cruelty statute, including the definition of “cruelty”, was not unconstitutionally vague. (*In re William G.*, 52 Md. App. 131, 447 A.2d 493, 495-96 (Md. Ct. Spec. App. 1982).

¹² The court found that the term “cruel” has “a settled and commonly understood meaning” and has “acquired a relatively widely accepted connotation in the law”. (*Bowers v. State*, 283 Md. 115, 389 A.2d 341, 348 (Md. 1978).

¹³ §§ 10-606- 10-608.

Maryland’s statutes are facially void for vagueness based on an inadequate definition of the term “cruelty”.

Haile v. State, 431 Md. 448 (Ct of Appeals Md., 2013).

Haile appealed a conviction of aggravated cruelty to an animal. The court affirmed his conviction, holding that because the canine police officer had warned Haile several times that the police dog would be released to apprehend Haile if he failed to comply with police orders, Haile could not claim self-defense as a defense for injuring the dog. The court held that Maryland’s animal cruelty statute does not include a provision requiring proof of intent, looking at the plain language of the statute and finding the language unambiguous because “it explicitly prohibits actions resulting in three kinds of harm – bodily harm, permanent disability, death – with specific regard to animals both owned, and used, by law enforcement.” Here, the court holds, bodily harm was inflicted. The court also rejects Haile’s argument that the statute only refers to serious bodily harm, again looking at the statute’s plain language. Last, the court rejects Haile’s argument of self-defense because Haile provoked the conflict by refusing to comply with the officer’s orders, which lead to the officer releasing the dog on Haile, and because the petitioner used excessive force in his interaction with the dog.

Hurd v. State, 988 A.2d 1143 (Md. App., 2010).

On appeal, the court held that Hurd did cruelly kill his neighbor’s dog Harley. Maryland defines “cruelty” as the unnecessary or unjustifiable physical pain or suffering caused or allowed by an act, omission, or neglect.”¹⁴ Judge Salmon stated it was legitimate to infer that Harley suffered pain in the interlude between sustaining the first bullet wound fired by Hurd and the fatal third shot fired by Hurd. “Nothing in the record suggests that it was either justified or necessary to shoot at the dog either time.”¹⁵ Although the court agreed that both necessity and justification could be defenses to animal cruelty charges, these are affirmative defenses under which the prosecution has no burden. The court held that Hurd did not provide sufficient evidence of necessity.

§ 10-607.1. Aggravated cruelty to animals–Dogfights

(a) (1) In this section, “implement of dogfighting” means an implement, an object, a device, or a drug intended or designed:

- (i) to enhance the fighting ability of a dog; or
- (ii) for use in a deliberately conducted event that uses a dog to fight with another dog.

(2) “Implement of dogfighting” includes:

- (i) a breaking stick designed for insertion behind the molars of a dog to break the dog’s grip on another animal or object;
- (ii) a cat mill that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;
- (iii) a springpole that has a biting surface attached to a stretchable device, suspended

¹⁴ MD. CRIM. LAW CODE ANN. § 10-601(c)(1).

¹⁵ *Hurd v. State*, 190 Md. App. 479, 493 (2010).

at a height sufficient to prevent an animal from reaching the biting surface while touching the ground;

(iv) a fighting pit or other confined area designed to contain a dogfight;

(v) a breeding stand or rape stand used to immobilize female dogs for breeding purposes; and

(vi) any other instrument or device that is commonly used in the training for, in the preparation for, in the conditioning for, in the breeding for, in the conducting of, or otherwise in furtherance of a dogfight.

(b) A person may not possess, with the intent to unlawfully use, an implement of dogfighting.

(c) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may:

(i) order a defendant convicted of violating this section to participate in and pay for psychological counseling; and

(ii) prohibit a defendant from owning, possessing, or residing with an animal for a specified period of time.

(3) Each implement of dogfighting possessed in violation of this section is a separate offense.

No Applicable Case Law

§ 10-608. Aggravated cruelty to animals–Cockfights

(a) (1) In this section, “implement of cockfighting” means any implement or device intended or designed:

(i) to enhance the fighting ability of a fowl, cock, or other bird; or

(ii) for use in a deliberately conducted event that uses a fowl, cock, or other bird to fight with another fowl, cock, or other bird.

(2) “Implement of cockfighting” includes:

(i) a gaff;

(ii) a slasher;

(iii) a postiza;

(iv) a sparring muff; and

(v) any other sharp implement designed to be attached in place of the natural spur of a gamecock or other fighting bird.

(b) 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 the intent to unlawfully use an implement of cockfighting;

(3) arrange or conduct a fight in which a fowl, cock, or other bird fights with another fowl, cock, or other bird;

(4) possess, own, sell, transport, or train a fowl, cock, or other bird with the intent to use the fowl, cock, or other bird in a cockfight; or

(5) knowingly allow premises under the person’s ownership, charge, or control to be used to conduct a fight in which a fowl, cock, or other bird fights with another fowl, cock, or other bird.

(c) (1) A person who violates this section is guilty of the felony of aggravated cruelty to animals

and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

- (2) As a condition of sentencing, the court may:
 - (i) order a defendant convicted of violating this section to:
 - (1) participate in and pay for psychological counseling; and
 - (2) pay, in addition to any other fines and costs, all reasonable costs incurred in removing, housing, treating, or euthanizing an animal confiscated from the defendant; and
 - (ii) prohibit a defendant from owning, possessing, or residing with an animal for a specified period of time.

Applicable Case Law:

Romig v. Montgomery Cnty., No. CV TDC-21-1475, 2023 WL 2744531 (D. Md. Mar. 31, 2023)

Romig faced criminal charges related to animal cruelty and possession of implements for cockfighting. He claimed violations of his Fourteenth Amendment due process rights, arguing that the laws were too vague and didn't provide notice of prohibited conduct. Romig had previously experienced enforcement of these laws, including the seizure and euthanization of his chickens, and he believed he was at risk of further seizures. However, the court found that his due process claims lacked legal support, as the need for a veterinarian's assessment before seizure was not clear-cut given the statutory definitions of cruelty. Consequently, Romig's due process claims were dismissed.

§ 10-609. Arrest by humane society officer

- (a) Except as provided in subsections (b) and (c) of this section, if an officer of a humane society sees a person committing a misdemeanor that involves cruelty to an animal, the officer shall arrest and bring before the District Court the person committing the misdemeanor.
- (b) In Calvert County, if an officer of a humane society or an animal control officer appointed by the County Commissioners or the County Commissioners' designee sees a person committing a misdemeanor that involves cruelty to an animal, the officer shall arrest and bring before the District Court the person committing the misdemeanor.
- (c) In Baltimore County, the Baltimore County Department of Health, Division of Animal Control shall enforce this section.

No Applicable Case Law

ANIMALS AS PRIZES, PROHIBITED METHODS OF KILLING CAT OR DOG, AND ABANDONMENT

§ 10-610. Animal as prize

- (a) This section does not apply to a person giving away an animal:
 - (1) as an agricultural project;
 - (2) for conservation purposes; or
 - (3) that is intended for slaughter.

- (b) Without the approval of the Secretary of Agriculture, a person may not give away a live animal as:
 - (1) a prize for, or inducement to enter, a contract, game, or other competition;
 - (2) an inducement to enter a place of amusement; or
 - (3) an incentive to make a business agreement if the offer is to attract trade.
- (c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.

No Applicable Case Law

§ 10-611. Killing of dog or cat—Prohibited means

- (a) A person may not kill or allow a dog or cat to be killed by use of:
 - (1) a decompression chamber;
 - (2) carbon monoxide gas; or
 - (3) curariform drugs.
- (b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.

No Applicable Case Law

§ 10-612. Abandoning domestic animal.

- (a) A person who owns, possesses, or has custody of a domestic animal may not drop or leave the animal on a road, in a public place, or on private property with the intent to abandon the animal.
- (b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

No Applicable Case Law

§ 10-613. Sale of puppy or kitten.

- (a) This section does not apply to:
 - (1) a biomedical facility that is licensed by the United States Department of Agriculture; or
 - (2) an animal that is accompanied by a signed statement from a licensed veterinarian stating that the animal's dam is incapacitated for humane or medical reasons and cannot care for the animal.
- (b) (1) Except as provided in paragraph (2) of this subsection, a person may not sell or distribute in the State or bring into the State for the purpose of sale or distribution a domestic dog or cat less than 8 weeks of age unless accompanied by its dam.
 - (2) A person may give an unaccompanied dog or cat to:
 - (i) an animal shelter or pound that is operated or supported by a government; or
 - (ii) a humane society.
- (c) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.
 - (2) For purposes of humane disposal, a court may seize an animal brought into this State in

violation of this section.

No Applicable Case Law

§ 10-614. Transfer or coloring of chick.

- (a) In this section, “chick” means a chicken, duckling, or other fowl under the age of 3 weeks.
- (b) This section does not prohibit the sale or display of a chick in proper facilities by a breeder or store engaged in the business of selling chicks for commercial breeding and raising.
- (c) A person may not:
 - (1) Sell, offer for sale, barter, or give away a chick as a pet, toy, premium, or novelty; or
 - (2) Color, dye, stain, or otherwise change the natural color of a chick.
- (d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$25.

No Applicable Case Law

CARE AND DISPOSITION OF SEIZED ANIMALS

§ 10-615. Care of mistreated animal

- (a) If an owner or custodian of an animal is convicted of an act of animal cruelty, the court may order the seizure of the animal or any other animal at the time of conviction for the protection of the animal.
- (b) (1) 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.
 - (2) (i) An animal that a medical and scientific research facility possesses may be seized under this subsection only after review by and a recommendation from the Maryland Department of Health, Center for Veterinary Public Health.
 - (ii) The Maryland Department of Health shall:
 - 1. Conduct an investigation within 24 hours after receiving a complaint; and
 - 2. Within 24 hours after completing the investigation, report to the State’s Attorney for the county in which the facility is situated.
- (c) (1) 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:
 - (i) Enter the place where the animal is located and supply the animal with necessary food, water, and attention; or
 - (ii) Seize the animal if seizure is necessary for the health of the animal.(2) A person who enters a place under paragraph (1) of this subsection is not liable because of the entry.
- (d) (1) A person who seizes an animal under subsection (c) of this section shall notify the animal’s owner or custodian by personal service or certified mail within 24 hours of:
 - (i) the seizure;
 - (ii) any administrative remedies that may be available to the owner or

- custodian; and
- (iii) If an administrative remedy is not available, the right to petition the court for the return of the animal under paragraph (2) of this subsection, including instructions describing how to petition the court for the return of the animal.
- (2) If an administrative remedy is not available, the owner or custodian may file a petition for the return of the animals in the District Court of the country in which the seizure occurred within 10 days after the seizure.
- (e) An animal is considered a stray and will be forfeited to a person who is authorized to seize the animal if:
 - (1) an owner or custodian of the animal was notified under subsection (d) of this section and failed to file a petition within 10 days after seizure; or
 - (2) the owner or custodian of the animal is unknown and cannot be ascertained by reasonable effort for 72 hours to determine the owner or custodian.
- (f) This section does not allow:
 - (1) entry into a private dwelling; or
 - (2) without the prior recommendation of a veterinarian licensed in the State, seizure of:
 - (i) livestock, as defined by § 1-101 of the Agriculture Article;
 - (ii) poultry, as defined by § 1-101 of the Agriculture Article; or
 - (iii) a dog that is actively engaged in livestock herding or guarding.
- (g) In Baltimore County, the Baltimore County Department of Health, Division of Animal Control or an organization that the Baltimore County government approves shall enforce this section.

Applicable Case Law

Rohrer v. Humane Soc'y of Washington Cnty., 454 Md. 1, 163 A.3d 146 (2017)

Mr. Rohrer, a farmer, faced allegations of severe neglect and animal cruelty on his farm in 2014, leading to the Humane Society's seizure of numerous animals. They initially had a dispute over their authority to take the animals while they were in state custody. The court clarified that the Humane Society can notify an owner of its intent to take possession of an animal upon its release from state custody, even if initially seized under a criminal warrant, and that the conditions justifying seizure need not be precisely contemporaneous. The court emphasized that denying a petition for return does not transfer ownership to the Humane Society; it affirms their right to possess the animal, and ownership rights revert to the owner when possession is no longer necessary for the animal's protection or health.

Shenk v. Humane Soc'y of Carroll Cnty., Inc., No. CV ELH-20-443, 2022 WL 252955 (D. Md. Jan. 27, 2022)

*3 I pause to note that “[s]ince 1900, Maryland law has authorized members of humane societies to serve as animal control units and to help carry out the State's laws concerning the protection of animals from abuse or neglect.” *Rohrer v. Humane Society of Wash. Cty.*, 454 Md. 1, 9, 163 A.3d 146, 150-51 (2017). For example, “the criminal statutes concerning animal cruelty delegate to humane societies certain powers to carry out the State's policy against animal cruelty.” *Id.* The Carroll County Code provides that the County Commissioners shall designate an “organization, agency, or corporation” to supervise the Code's provisions regulating animals and to operate the

County's animal shelter. County Code § 90.01. Pursuant to this provision, the County Commissioners have designated HSCC. See ECF 29-12 (Memorandum of Understanding).⁶ Shenk o argues that governmental immunity should not apply to the County's legal representation of HSCC as part of her replevin suit against HSCC, because the suit did not enforce an animal control law. But, the legal representation was inextricably intertwined with enforcement of the animal control laws, such as C.L. § 10-615 and C.L. § 10-617. The costs were incurred in regard to efforts of the County to protect animals.

§ 10-615.1 Reasonable costs of care for a seized animal

- (a) In this section, "owner" means a person who can prove legal title to or ownership of an animal at issue on the date of the seizure.
- (b) (1) (i) If an animal is seized under § 10-615 of this subtitle and the owner has filed a petition for return of the animal, an officer or authorized agent of a humane society, or a police officer or any other public official required to protect animals who represents the seizing person, may file a petition to join a proceeding conducted under § 10-615(d)(2) of this subtitle for the reasonable costs of caring for the animal, including the provision of food, water, shelter, and medical care.
 - (ii) If livestock, as defined by § 1-101 of the Agriculture Article, is seized under § 10-615 of this subtitle and the owner has not filed a petition for return of the animal, an officer or authorized agent of a humane society, or a police officer or any other public official required to protect animals who represents the seizing person, shall file a petition for the continued possession of the livestock and reasonable costs for caring for the livestock, including the provision of food, water, shelter, and medical care.
- (2) A petition filed under paragraph (1) of this subsection shall be filed not less than 10 days but not more than 30 days after the seizure of an animal under § 10-615 of this subtitle.
- (3) Within 7 days after filing a petition under this subsection, the petitioner shall serve a copy of the petition on the owner or custodian of the animal by personal service or by registered mail to:
 - (i) the owner's or custodian's mailing address;
 - (ii) the place of business of the owner's or custodian's counsel of record; or
 - (iii) if the owner or custodian is detained pretrial, the detention facility where the owner or custodian is located.
- (c) On receipt of a petition filed under § 10-615(d) (2) of this subtitle or subsection (b)(1) of this section, the court shall set a date for a hearing to determine:
 - (1) whether the seizure of the animal was warranted;
 - (2) whether the continued possession by the petitioner is warranted;
 - (3) the responsibility of the owner or custodian for the reasonable costs of care for the seized animal; and
 - (4) whether the owner or custodian may be allowed to own or possess a new animal during the pending proceeding and until the disposition of any criminal charges relating to the seizure.
- (d) (1) A hearing under subsection (c) of this section shall be scheduled not less than 14 days but

not more than 21 days from the service of the petition.

(2) (2) Within 7 days after the scheduling of the hearing date, a petitioner shall serve notice of the hearing date on the owner or custodian of the seized animal in the manner described under subsection (b)(3) of this section.

(e) At the hearing under subsection (c) of this section, the petitioner shall demonstrate by a preponderance of the evidence:

- (1) the amount of reasonable costs of care for the seized animal;
- (2) that the seizure of the animal was warranted; and
- (3) that the continued possession of the animal by the petitioner is warranted.

(f) During a hearing under subsection (c) of this section, the owner or custodian of the seized animal shall have the opportunity to:

- (1) object to the evidence presented by the petitioner; and
- (2) request an alternative disposition of the animal.

(g) (1) (i) Not later than 5 days after the conclusion of a hearing under § 10-615(d)(2) of this subtitle or subsection (b)(1) of this section, the court shall issue an order granting or denying the petitions.

(ii) Reasonable costs of care for a seized animal shall be limited to \$15 per day per animal, in addition to necessary medical care, as determined by a licensed veterinarian and documented by invoices.

(iii) Necessary medical care may not exceed \$50 per day per animal.

(iv) If the court awards payment of the reasonable cost of care of the seized animal to the petitioner, the court shall:

1. order the owner or custodian of the seized animal to pay any filing fees paid by the petitioner to file the petition under subsection (b) section and the amount of reasonable costs of care; and
2. inform the owner or custodian of the animal of the right to petition for an adjustment of the amount of costs for care under paragraph (5) of this subsection.

(v) If the court finds that the seizure of an animal was warranted, the court may prohibit the owner or custodian of the animal from owning or possessing a new animal until the conclusion of any criminal proceedings related to the seizure of the animal.

(2) (i) The court order for filing fees and costs of care shall include a schedule of monthly payments to be paid by the owner or custodian to the clerk of the court beginning 30 days after the initial payment designated in the order.

(ii) The petitioner shall be eligible to draw funds held by the clerk of the court to reimburse its actual costs incurred for care of the animal.

(iii) Payments shall continue until termination under subsection (i) of this section.

(iv) Unless the proceeding involves not more than two animals and the only charges are neglect, the ability to pay by the owner or custodian may not affect the court's determination as to the amount of the reasonable costs of care.

(3) (i) Not later than 14 days after service of the court order, the owner or custodian shall begin to make payments to the clerk of the court in accordance with the court order.

(ii) The owner or custodian shall continue to make payments as required by

the court order until termination under subsection (i) of this section.

(4) If an owner or a custodian fails to timely pay any of the amounts ordered within 30 calendar days:

(i) the seized animal for which reasonable costs of care were ordered shall be automatically forfeited, by operation of law, to the petitioner; and

(ii) the petitioner shall obtain all rights and privileges in and over the animal.

(5) (i) The court, on motion by a petitioner or the owner or custodian, and after notice and a hearing consistent with this section, may:

1. determine whether the continued possession of the animal by the petitioner is warranted; or

2. adjust the amount of costs for care.

(ii) Payments by the owner or custodian shall be suspended until the motion is decided.

(h)(1)(i) Payment for reasonable costs of care by the owner or custodian of the seized animal does not prevent the petitioner from providing necessary medical care, including euthanizing the seized animal.

(ii) The petitioner may euthanize a seized animal if the petitioner obtains a written opinion from a local licensed veterinarian who states it is necessary to alleviate the animal's suffering.

(iii) Unless immediate euthanasia is considered necessary by a veterinarian under subparagraph (ii) of this paragraph, reasonable notice shall be provided to the owner or custodian before the animal is euthanized.

(2) Payment of reasonable costs of care under subsection (g) of this section may not prevent the petitioner from transferring the seized animal to another facility or caretaker if the court is notified of the transfer in a timely manner.

(i) (1) A court order for costs shall terminate if:

(i) the owner of the animal surrenders all rights to the animal;

(ii) the animal is forfeited to the petitioner under § 10-615(e) of this subtitle or subsection (g)(4) or (l) of this section; or

(iii) the animal dies or is euthanized.

(2) After termination of the order, any unused funds retained by the clerk of the court shall be returned to the owner or custodian of the animal.

(j) A petitioner shall be immune from civil liability for damages alleged by an owner or a custodian concerning the care provided by the petitioner, except for intentional misconduct or gross negligence resulting in the death of the seized animal.

(k) If the owner or custodian of the seized animal is acquitted of all criminal charges and if all costs ordered to be paid under this section have been timely paid, the owner or custodian of the animal is entitled to:

(1) take repossession of the animal; and

(2) a return of all reasonable costs of care paid by the owner or custodian.

(l) If the owner or custodian of the seized animal is convicted of any criminal charges brought in relation to a seizure under § 10-615 of this subtitle, any animals seized shall be forfeited.

(m) This section may not be construed to prevent an officer or authorized agent of a humane society, or a police officer or other public official required to protect animals, from seeking restitution as part of sentencing if a person does not seek costs of care under this section.

No Applicable Case Law

§ 10-616. Kennel inspection

- (a) This section does not apply to premises:
 - (1) where dogs are kept or bred solely for medical or related research or laboratory tests;
 - (2) operated by a licensed and regularly practicing veterinarian; or
 - (3) where hunting dogs are housed, if the buying, selling, trading, or breeding is incidental to the main purposes of housing, keeping, and using dogs.
- (b) (1) To determine if dogs are being treated inhumanely in violation of this subtitle or other law, an authorized director of a humane society, accompanied by a sheriff or a deputy sheriff, may inspect a premises:
 - (i) where a person is engaged in the business of buying, selling, trading, or breeding dogs; or
 - (ii) of a kennel where 25 or more dogs are kept.
- (2) A person who inspects premises under paragraph (1) of this subsection shall give prior written notice of the time and date of the inspection to the owner or occupant of the premises.
- (c) (1) In Baltimore City, the Baltimore City Health Department shall enforce this section.
 - (2) In Baltimore County, the Baltimore County Department of Health, Division of Animal Control or an organization that the Baltimore County government approves shall enforce this section.

No Applicable Case Law

§ 10-617. Disposal of domestic animal

- (a) In this section, “animal control unit” means the local organization or governmental unit that the appropriate local governmental body designates to house, care for, and control domestic animals of unknown ownership.
- (b) An animal control unit shall dispose of an unclaimed dog or cat only by:
 - (1) Placing the animals in a suitable home;
 - (2) Retaining the animal in the animal control unit; or
 - (3) Humanely destroying the animal.
- (c) A domestic animal that is impounded by an animal control unit may not be sold, placed, or destroyed until the animal has been carefully inspected for a tag, tattoo, microchip, or other identification to ascertain the owner and:
 - (1) 72 hours have elapsed after notice has been given to the owner;
 - (2) If the owner cannot be notified, 72 hours have elapsed after the animal is impounded;
 - (3) The animal is seriously diseased or severely injured; or
 - (4) The animal is under 3 months of age.
- (d) (1) An animal control unit shall make a reasonable effort to notify the owner of the location of and the procedure for retrieving an impounded animal.
 - (2) An owner who retrieves an animal from an animal control unit shall pay all fees, costs, and expenses incurred by the animal control unit.
 - (3) The necessary expenses for food and attention given to the animal under this section may be collected from the owner, and the animal is not exempt from levy and sale on execution of a judgment for the expenses.

- (4) A new owner with whom an animal is placed under subsection (b)(1) of this section may be charged an adoption fee.
- (e) A person who violates this section:
- (1) for a first offense, is subject to a civil fine not exceeding \$500; and
 - (2) for a second or subsequent offense, is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500.

Applicable Case Law:

Rohrer v. Humane Soc'y of Washington Cnty., 454 Md. 1, 163 A.3d 146 (2017)

Humane society officers along with other law enforcement officers, executed a criminal search and seizure warrant at the farm of Daniel Rohrer. The search and seizure warrant, which was based on an affidavit of a Humane Society officer alleging abuse and neglect of animals at the farm, resulted in the seizure and removal of nearly 100 animals from Mr. Rohrer's farm. The owner of farm animals appealed a trial court's denial of his petition to have his animals returned. The appellate court ruled that although a humane society officer couldn't take possession of animals already in state custody under a criminal search warrant, the officer could notify the owner of their intent to take possession upon the animals' release from state custody. Additionally, the officer was not prevented from relying on previously observed conditions to justify taking possession of the animals. Furthermore, the denial of the owner's petition for the return of the animals did not extinguish his ownership interest in them.

Shenk v. Humane Soc'y of Carroll Cnty., Inc., No. CV ELH-20-443, 2022 WL 252955 (D. Md. Jan. 27, 2022)

In August 2019, the plaintiff filed a second replevin action, claiming it was combined with two lawsuits filed against her by HSCC in May 2019. The court ordered the return of the plaintiff's dogs, contingent on her payment of HSCC's costs. However, HSCC allegedly gave away her dogs to other organizations without notice, which violated the law. Consequently, the court struck the plaintiff's obligation to reimburse HSCC. The plaintiff argued that governmental immunity shouldn't apply to the County's legal representation of HSCC in her replevin suit, but the court disagreed, stating that the legal representation was linked to enforcing animal control laws. In summary, the County is immune from State law claims against it, but this doesn't affect potential claims based on the Maryland or federal Constitution.

MISCELLANEOUS PROVISIONS

§ 10-618. Poisoning dog

- (a) A person may not willfully and maliciously give poison or ground glass to a dog, or expose poison or ground glass, with the intent that a dog ingest it.
- (b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100 for each violation.

No Applicable Case Law

§ 10-619. Dangerous dog

- (a) (1) In this section the following words have the meanings indicated.
- (2) "Dangerous dog" means a dog that:

(i) without provocation has killed or inflicted severe injury on a person; or
(ii) is determined by the appropriate unit of a county or municipal corporation under subsection (c) of this section to be a potentially dangerous dog and, after the determination is made:

1. bites a person;
2. when not on its owner's real property, kills or inflicts severe injury on a domestic animal; or
3. attacks without provocation.

(3) (i) "Owner's real property" means real property owned or leased by the owner of a dog.

(ii) "Owner's real property" does not include a public right-of-way or a common area of a condominium, apartment complex, or townhouse development.

(4) "Severe injury" means a physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

(b) This section does not apply to a dog owned by and working for a government or law enforcement unit.

(c) An appropriate unit of a county or municipal corporation may determine that a dog is potentially dangerous if the unit:

(1) finds that the dog:

- (i) has inflicted a bite on a person while on public or private real property;
- (ii) when not on its owner's real property, has killed or inflicted severe injury on a domestic animal; or
- (iii) has attacked without provocation; and

(2) notifies the dog owner in writing of the reasons for this determination.

(d) A dog owner may not:

(1) leave a dangerous dog unattended on the owner's real property unless the dog is:

- (i) confined indoors;
- (ii) in a securely enclosed and locked pen; or
- (iii) in another structure designed to restrain the dog; or

(2) allow a dangerous dog to leave the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.

(e) An owner of a dangerous dog or potentially dangerous dog who sells or gives the dog to another shall notify in writing:

(1) the authority that made the determination under subsection (c) of this section, of the name and address of the new owner of the dog; and

(2) the person taking possession of the dog, of the dangerous behavior or potentially dangerous behavior of the dog.

(f) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$2,500.

Applicable Case Law

Latz v. Parr, No. 977 (Md. Ct. Spec. App. Jul. 6, 2021)

In this case, the court used the statute in relation of the definition of "owner". The court noted that prior to the 2002 recodification of Article 27 into the Criminal Law Article, the predecessor statute to CL § 10-619, Art. 27, Section 70E(a)(3) defined "owner" as "any person or local entity that has a possessory right in a dog." The court was not persuaded by the argument that the legislation was

intended to change the common law related to strict liability for personal injury beyond the creation of the rebuttable presumption the owner knew or should have known of the dog's vicious propensities and precisely when the court can rule on whether that presumption has been rebutted as a matter of law. The court reasoned that the General Assembly may have rejected the inclusion of the proposed "ownership" definition as unnecessary because it was clear under common law liability extended to "keepers."

§ 10-620. Interference with an equine

- (a) In this section, "equine" includes horses, donkeys, mules, and ponies.
- (b) This section does not apply to the owner of the equine or a person acting on behalf of or at the direction of the owner of the equine.
- (c) A person may not:
 - (1) willfully and maliciously interfere with, injure, destroy, or tamper with an equine used for:
 - (i) racing or breeding;
 - (ii) a competitive exhibition of skill, breed, or stamina; or
 - (iii) any other lawful activity;
 - (2) willfully start, instigate, engage in, or further an act that interferes with, injures, destroys, or tampers with an equine used for:
 - (i) racing or breeding;
 - (ii) a competitive exhibition of skill, breed, or stamina; or
 - (iii) any other lawful activity; or
 - (3) commit an act that tends to interfere with, injure, destroy, or tamper with an equine used for:
 - (i) racing or breeding;
 - (ii) a competitive exhibition of skill, breed, or stamina; or
 - (iii) any other lawful activity.
- (d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

No Applicable Case Law

§ 10-621. Import, offer for sale, trade, barter, possess, breed, or exchange certain live animals prohibited

- (a) (1) Except as provided in subsection (b)(2) of this section, this section does not apply to:
 - (i) a research facility or federal research facility licensed under the federal Animal Welfare Act;
 - (ii) the holder of a Class C Exhibitor's License under the Animal Welfare Act, 7 U.S.C. § 2131 et seq., that displays the animals specified in subsection (b) of this section in a public setting as the exhibitor's primary function;
 - (iii) a person who possesses a valid license or permit issued by the Department of Natural Resources to import, sell, trade, barter, possess, breed, or exchange an animal specified in subsection (b) of this section;
 - (iv) an animal sanctuary that:

1. is a nonprofit organization qualified under § 501(c)(3) of the Internal Revenue Code;
 2. operates a place of refuge for abused, neglected, impounded, abandoned, orphaned, or displaced wildlife;
 3. does not conduct commercial activity with respect to any animal of which the organization is an owner; and
 4. does not buy, sell, trade, lease, or breed any animal except as an integral part of the species survival plan of the American Zoo and Aquarium Association;
- (v) an animal control officer under the jurisdiction of the State or a local governing authority, a law enforcement officer acting under the authority of this subtitle, or a private contractor of a county or municipal corporation that is responsible for animal control operations;
- (vi) a person who holds a valid license to practice veterinary medicine in the State and treats the animal specified in subsection (b) of this section in accordance with customary and normal veterinary practices;
- (vii) a person who is not a resident of the State and is in the State for 10 days or less for the purpose of traveling between locations outside of the State; and
- (viii) a circus holding a Class C Exhibitor's License under the Animal Welfare Act, 7 U.S.C. § 2131 et seq., that:
1. is in the State for less than 90 days per calendar year;
 2. regularly conducts performances featuring live animals and multiple human entertainers, including acrobats and clowns; and
 3. does not allow members of the public to be in proximity to an animal specified under subsection (b) of this section, including opportunities to be photographed with the animal, without sufficient distance and protective barriers.
- (2)(i) This section does not prohibit a person who had lawful possession of an animal specified in subsection (b) of this section on or before May 31, 2006, from continuing to possess that animal if the person provides written notification to the local animal control authority on or before August 2, 2006.
- (ii) The notification shall include:
1. the person's name, address, and telephone number;
 2. the number and type of animals being kept; and
 3. a photograph of the animal or a description of a tattoo or microchip identification of the animal.
- (3) This section does not prohibit a person who has a disability that severely limits mobility from possessing an animal specified in subsection (b) of this section if that animal is:
- (i) trained to perform tasks for the owner by an organization described in Section 501(c) of the Internal Revenue Code; and
 - (ii) dedicated to improving the quality of life of a person who has a disability that severely limits mobility.
- (b) (1) A person may not import into the State, offer for sale, trade, barter, possess, breed, or exchange a live:
- (i) fox, skunk, raccoon, or bear;
 - (ii) caiman, alligator, or crocodile;

- (iii) member of the cat family other than domestic cat;
- (iv) hybrid of a member of the cat family and a domestic cat if the hybrid weighs over 30 pounds;
- (v) member of the dog family other than the domestic dog;
- (vi) hybrid of a member of the dog family and a domestic dog;
- (vii) nonhuman primate, including a lemur, monkey, chimpanzee, gorilla, orangutan, marmoset, loris, or tamarin; or
- (viii) poisonous snake in the family groups of Hydrophidae, Elapidae, Viperidae, or Crotolidae.

(2)(i) This paragraph does not apply to an entity described in subsection (a)(1)(i), (iii), (iv), (v), (vi), (vii), or (viii) of this section.

(ii) Except as provided in subparagraph (iii) of this paragraph, the holder of a Class C Exhibitor's License under the Animal Welfare Act, 7 U.S.C. § 2131 et seq., may not possess a nonhuman primate, bear, lion, tiger, leopard, clouded leopard, snow leopard, jaguar, cheetah, or cougar or a hybrid of one of these animals that was not owned by the holder of the license on June 30, 2014.

(iii) The holder of a Class C Exhibitor's License under the Animal Welfare Act, 7 U.S.C. § 2131 et seq., may acquire or breed a nonhuman primate, bear, lion, tiger, clouded leopard, snow leopard, jaguar, cheetah, or cougar or a hybrid of one of these animals if the holder:

1. maintains a liability insurance policy of at least \$1,000,000;
2. has a paid full-time director;
3. has at least one paid full-time staff member trained in the care of each species that the holder keeps;
4. has an animal disposition policy that provides for the placement of animals in appropriate facilities if the holder's facility closes; and
5. maintains and implements a training plan regarding zoonotic disease risk and prevention.

(c)(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

- (i) if an individual, a fine not exceeding \$1,000; or
- (ii) if not an individual, a fine not exceeding \$10,000.

(2) The provisions of this section may be enforced by:

- (i) any State or local law enforcement officer; or
- (ii) the local animal control authority for the jurisdiction where the violation occurs.

(d)(1) An animal specified in subsection (b) of this section may be immediately seized if:

- (i) there is probable cause to believe that the possession of the animal is in violation of this section; or
- (ii) the animal poses a risk to public health or public safety.

(2) An animal specified in subsection (b) of this section that is seized may be returned to the person who had possession of the animal at the time the animal was seized only if it is established that:

- (i) possession of the animal by the person is not a violation of this section; and
- (ii) the return of the animal does not pose a risk to public health or public safety.

(3)(i) Notice that the animal was seized shall be served on the person who had possession of the animal at the time the animal was seized by:

1. posting a copy of the notice at the place where the animal was seized;
2. regular and certified mail, return receipt requested; or
3. delivering the notice to a person residing on the property from which the animal was seized.

(ii) The notice shall include:

1. a description of the animal seized;
2. the authority for and the purpose of the seizure;
3. the time, place, and circumstances of the seizure;
4. a contact person and telephone number;
5. a statement that the person from whom the animal was seized may:
 - A. post security to prevent disposition of the animal; and
 - B. request a hearing concerning the seizure;
6. a statement that failure to post security or request a hearing within 10 days of the date of the notice will result in the disposition of the animal; and
7. a statement that, unless a court finds that the seizure of the animal was not justified, the actual costs of the care, keeping, and disposal of the animal are the responsibility of the person from whom the animal was seized.

(4)(i) Before a seizure under paragraph (1) of this subsection occurs, the person in possession of the animal to be seized may request that the animal remain in the person's physical custody for 30 days after the date the animal was to be seized.

(ii) During the 30 days provided in subparagraph (i) of this paragraph, the person shall take all necessary actions to comply with this section.

(iii) At any reasonable time during the 30-day period, the local animal control authority may inspect the premises where the animal is being kept.

(5)(i) If a person who retains possession of an animal under paragraph (4) of this subsection is not in compliance with this section after the 30-day period has expired, the local animal control authority shall seize the animal and place it in a holding facility that is appropriate for the species.

(ii) The authority seizing an animal under this paragraph shall provide notice of the seizure in the same manner as provided in paragraph (3) of this subsection.

(6)(i) A person from whom an animal was seized may request a hearing in the District Court within 10 days of the seizure.

(ii) A hearing shall be held as soon as practicable to determine the validity of the seizure and the disposition of the animal.

(7)(i) Unless the court finds that the seizure of the animal was not justified by law, a person from whom the animal specified in subsection (b) of this section is seized is liable for all actual costs of care, keeping, and disposal of the animal.

(8)(i) If there is no request for a hearing within 10 days of the notice or if the court orders a permanent and final disposition of the animal, the local animal control authority shall take steps to find long-term placement of the animal with another appropriate facility that is equipped for the continued care of the particular species of the animal.

(ii) If there is no entity that is suitable for the care of the animal, the animal may be euthanized.

- (e) This section does not limit a county or municipality from enacting laws or adopting regulations that are more restrictive pertaining to any potentially dangerous animals, including those specified in subsection (b) of this section.
- (f) If the owner of an animal specified in subsection (b) of this section dies without making arrangements for the transfer of custody of the animal to another person, the animal may be turned over to one of the organizations specified in subsection (a)(1) of this section or euthanized if no suitable location can be found in a reasonable amount of time.

Applicable Case Law:

Walker v. Prince George's Cnty., MD, 575 F.3d 426 (4th Cir. 2009)

An individual reported a domestic dispute and informed the police that Plaintiff Robert Walker was keeping a wolf as a pet. The police contacted Animal Control Officer Jacobs, who impounded the wolf after confirming its identity. Plaintiffs later filed a petition for the animal's return but were found in violation of county code, leading to their lawsuit in January 2007. In their cross-motion for summary judgment, the Plaintiffs argue that they had a lawful right to possess the animal under Maryland Code § 10-621(a)(2)(i) because they believed it was a dog, not a wolf, and had until August 1, 2006, to provide written notification. The Defendants dispute this claim, asserting that there is no evidence of the Plaintiffs' intent to comply with the Maryland Code, and the Court agrees, finding that the Plaintiffs have not demonstrated they were actively attempting to provide the required notification.

Gregory W. PHILLIPS, Appellant, v. J BAR W INC., et al., Appellees., 2017 WL 1033648

In the decision, Judge Adams focused on the distinction between "wild animals" and "domestic animals" when determining strict liability. If an animal is classified as "wild," the owner is automatically liable, whereas for "domestic" animals, liability depends on whether the owner was aware of their dangerous tendencies. she makes references to § 10-621, which enumerates designated "wild animals" with the notable absence of bulls or rodeo bulls. The Appellant contends that the evaluation of the bull in question should not be limited to a binary classification as either "domestic" or "wild," followed by the application of the corresponding standard of strict liability. Hence, drawing from the sound legal principles outlined in *Benton* and the relevant legal provisions mentioned above, it becomes evident that an animal categorized as "domestic" may, in the context of strict liability, also carry the label of "dangerous." Consequently, this eliminates the need for the plaintiff to establish that the owner was aware or should have been aware of the animal's propensities leading to the alleged injuries. However, what's of greater significance in this case is that the trial court prematurely resolved a factual matter rather than a legal one. Therefore, Judge Adams' classification of the bull in question as "domestic" was an erroneous judgment.

§ 10-622. Injuring or trapping carrier pigeon

- (a) A person may not shoot, kill, or maim a carrier pigeon.
- (b) A person may not entrap, catch, or detain a carrier pigeon that has:
 - (1) the owner's name stamped on the carrier pigeon's wing or tail; or
 - (2) a leg band that includes the owner's initials, name, or number.
- (c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10 for each violation.

No Applicable Case Law

§ 10-623. Dogs outside, unattended and restrained

- (a) (1) In this section, the following words have the meanings indicated.
- (2) “Collar” means a device constructed of nylon, leather, or similar material specifically designed to be used around the neck of a dog.
- (3) “Extreme weather conditions” means temperatures below 32 degrees Fahrenheit or conditions during an active winter or cold weather warning or advisory, issued by the National Weather Service.
- (4) “Restraint” means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.
- (5) “Sporting” means any athletic competition, skill competition, obedience competition, or other competition intended for the participation of dogs.
- (6) “Suitable shade” means an area completely protected from the direct sun that is accessible and fully covers a dog.
- (7) “Suitable shelter” means a structure that:
- (i) is properly ventilated;
 - (ii) has a solid floor that allows the dog to remain reasonably dry;
 - (iii) has a weatherproof roof;
 - (iv) is enclosed with an entrance on one side;
 - (v) allows a dog to maintain its normal body temperature; and
 - (vi) is suitable for the species, age, condition, size, and type of dog.
- (b) A person may not leave a dog outside and unattended by use of a restraint:
- (1) that unreasonably limits the movement of the dog;
 - (2) that uses a collar that:
 - (i) is made primarily of metal; or
 - (ii) is not at least as large as the circumference of the dog’s neck plus 1 inch;
 - (3) that restricts the access of the dog to suitable and sufficient clean water or appropriate shelter;
 - (4) in unsafe or unsanitary conditions; or
 - (5) that causes injury to the dog.
- (c) Except as provided in subsection (d) of this section, a person may not leave a dog outside and unattended for longer than 30 minutes without access to continuous:
- (1) suitable shelter during extreme weather conditions; and
 - (2) suitable shelter or suitable shade when temperatures are above 90 degrees Fahrenheit.
- (d) The prohibition in subsection (c) of this section does not apply if the dog is lawfully and actively engaged in:
- (1) hunting;
 - (2) livestock herding or guarding;
 - (3) sledding;
 - (4) sporting; or
 - (5) training.
- (e) (1) A person who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000

or both.

- (2) A violation of subsection (c) of this section is a civil offense punishable by:
 - (i) for a first violation, a warning;
 - (ii) for a second violation, a civil penalty of up to \$500; and
 - (iii) for a third or subsequent violation, a civil penalty of up to \$1,000.
- (f) This section may not be construed to prohibit a local government from adopting a requirement for the health and safety of dogs that is more stringent than the requirements of this section.

Applicable Case Law:

Latz v. Parr, No. 977 (Md. Ct. Spec. App. Jul. 6, 2021)

In this case, the court references this part of the code to clarify that the term "owner" (of a dog) is not defined by either Md. Code, § 10-619 of the Criminal Law Article ("CL") (governing dangerous dogs) and CL § 10-623 (governing leaving dogs outside and unattended by use of restraints). Therefore, the court found that for the purposes of this case, the question is whether "owner" in CJP § 3-1901 was intended to include keepers and harborers as it did at common law in a strict liability case.

§ 10-624. Surgical restrictions relating to dogs

- (a) Except as provided in subsection (b) of this section, a person may not:
 - (1) crop or cut off the ear of a dog;
 - (2) dock or cut off the tail of a dog;
 - (3) cut off the dewclaw of a dog; or
 - (4) surgically birth a dog.
- (b) A procedure described in subsection (a) of this section may be performed by a licensed veterinarian using anesthesia when appropriate on the animal.
- (c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
 - (1) for a first offense, imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both; and
 - (2) for a second or subsequent offense, imprisonment not exceeding 180 days or a fine not exceeding \$5,000 or both.

No Applicable Case Law

§ 10-625. Devocalization of cats or dogs

- (a) (1) "Devocalize" means to perform a surgical procedure involving cutting, notching, punching, abrading, lasering, suturing, or otherwise physically altering the vocal apparatus of a dog or cat with the intent of altering, reducing, or eliminating vocal sounds produced by the animal.
 - (2) "Devocalize" includes debarking, devoicing, silencing, ventriculocordectomy, vocal cordectomy, bark reduction, and bark softening.
- (b) Except as provided in subsection (c) of this section, a person may not surgically devocalize a dog or cat.
- (c) A licensed veterinarian may surgically devocalize a dog or cat only if:

- (1) anesthesia is administered to the animal during the procedure; and
 - (2) the veterinarian provides the owner or keeper of the animal a written certification that:
 - (i) states that the procedure on the animal was medically necessary to treat or relieve a physical illness, a disease, or an injury, or to correct a congenital abnormality that is causing or will cause the animal medical harm or pain; and
 - (ii) contains:
 1. the date and description of the veterinarian's examination and evaluation;
 2. supporting diagnoses and findings;
 3. the name and current address and telephone number of the animal's owner or keeper; and
 4. the name and current address and telephone number, State license number, and signature of the veterinarian.
- (d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
- (1) for a first offense, imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both; and
 - (2) for a second or subsequent offense, imprisonment not exceeding 1 year or a fine not exceeding \$2,000 or both.

No Applicable Case Law

§ 10-625.1. Declawing procedure on cat prohibited

- (a) In this section, "declawing procedure" has the meaning stated in § 2-301 of the Agriculture Article.
- (b) Except as provided in § 2-313.3 of the Agriculture Article, a person may not perform a declawing procedure on a cat.
- (c)
 - (1) A violation of this section is a civil offense.
 - (2) A person who violates this section is subject to a fine not exceeding \$1,000.
 - (3) The provisions of this section may be enforced by:
 - (i) any State or local law enforcement officer; or
 - (ii) the local animal control authority for the jurisdiction where the violation occurs.

No Applicable Case Law

§ 10-626. Harm to service animals

- (a) In this section, "service animal" has the meaning stated in § 7-701 of the Human Services Article.
- (b) A person may not willfully and maliciously:
 - (1) kill a service animal or allow an animal that the person owns or over which the person has immediate control to kill a service animal;
 - (2) injure a service animal or allow an animal that the person owns or over which the person has immediate control to injure a service animal; or
 - (3) interfere with the use of a service animal or allow an animal that the person owns or over which the person has immediate control to interfere with the use of a service animal.

(c) (1) A person who violates subsection (b)(1) or (2) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$2,500 or both.

(2) A person who violates subsection (b)(3) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.

(3) As a condition of sentencing, the court may order a defendant convicted of violating this section to pay, in addition to fines and costs, full restitution for all damages arising out of the offense, including:

(i) the value of the service animal;

(ii) replacement and training or retraining expenses for the service animal and handler;

(iii) Veterinary and other medical and boarding expenses for the service animal;

(iv) Medical expenses for the handler; and

(v) Lost wages or income incurred by the handler during any period that the handler is without the services of the service animal.

No Applicable Case Law