



Gregory J. Swain, County Attorney

MEMORANDUM

To: Council Members, Anne Arundel County Council

From: Curran Ritter, Assistant County Attorney /s/

Via: Gregory J. Swain, County Attorney

Date: October 19, 2020

Subject: Bill No. 89-20 – Public Safety – Animal Control and Animal Control Commission – Renaming and Repurposing

Legislative Summary

This summary was prepared by the Anne Arundel County Office of Law for use by members of the Anne Arundel County Council during consideration of Bill No. 89-20, a Bill which modifies Article 12, Title 4 relating to Animal Control.

Background. This Bill amending Article 12, Title 4 of the County Code (the “Title”) is intended to resolve four existing challenges facing Animal Care and Control.

First, Anne Arundel County Animal Control has been renamed Anne Arundel County Animal Care and Control and the “Animal Control Commission” is to be renamed the “Animal Matters Commission”. These changes require references to the obsolete names in the County Code to be amended.

Second, Sections 10-601, et seq. of the Criminal Law Article of the State Code define and prohibit aggravated cruelty, cruelty, and neglect of an animal. Section 10-615 authorizes Animal Care and Control officers to enter an area where an animal is located to remove the animal or to provide the animal with necessary food, water, and attention. That same section describes the process for obtaining the return of the animal as either proceeding through “any administrative remedies that may be available,” or by filing a petition in the District Court. The County currently does not have an administrative process for the return of an animal seized under that section.

Third, the County Code does not address issues presented by animal owners who

Note: This Legislative Summary provides a synopsis of the bill as introduced. It does not address subsequent amendments to the bill.

repeatedly violate provisions of the Title designed to protect the community. Animal owners are able to violate the County Code countless times and are subject only to fines.

Fourth, there is a lack of clarity with regard to the powers and authority of the Animal Control Commission, now the Animal Matters Commission, and Animal Care and Control officers.

Purpose. The purpose of this Bill is to clarify language, increase uniformity of language, and correct errors throughout the Title.

The Title is being amended to change the names of the Animal Control Commission to the Animal Matters Commission, and the Animal Control Agency to the Animal Care and Control Agency. As a result, references to the obsolete names are corrected and made uniform throughout the Title.

The Bill incorporates the definitions and processes contained in the State Code as they relate to animal cruelty and animal neglect, authorizes the seizure of animals subjected to cruelty or neglect as authorized by the State Code, and establishes an administrative process for the owner of the animal to seek the animal's return outside of the District Court process.

The Bill amends the Title to declare routine or repeat violators of the Title as reckless animal owners. This results in a prohibition of owning animals for an established period of time if an animal owner is involved in repeated violations of the County Code. The Bill goes on to establish an administrative process for the individual to appeal the prohibition.

The Bill defines and clarifies the powers of the Animal Matters Commission and of Animal Care and Control officers. The Bill also delineates the processes to be employed by the Animal Matters Commission and Animal Care and Control when appeals are taken to the Commission.

Section 1.

Subsection 12-4-101(1) is amended to define "Agency" as "Animal Care and Control" to properly reflect the new name of the Agency.

Subsection 12-4-101(3) is amended to change the name of "Animal Control" to "Animal Care and Control."

Sections 12-4-101(4) and (46), 12-4-604, 12-4-609, and 12-4-912 are amended to replace references to "Animal Control" with the "Agency" to provide uniformity to the Title.

Subsections 12-4-101(10), 12-4-709(e), and 12-4-712(b) are amended to correct the County Code references contained in the various sections.

Subsections 12-4-101(16) is amended to change the definition of the "Commission" to replace the now obsolete name of "Animal Control Commission" with "Animal Matters

Commission.”

Subsection 12-4-101(19) is amended to add language to the definition of “cruelty” to mirror the language of §§ 10-601 and 10-604 of the Criminal Law Article of the State Code and to incorporate aggravated cruelty, dogfighting, and cockfighting as defined by the Criminal Law Article of the State Code into the definition of “cruelty”.

Sections 12-4-103, 12-4-714, and 12-4-717 are amended to remove superfluous language from the Title by eliminating references to an animal’s “custodian” because the definition of “owner” includes a custodian.

Section 12-4-201 is amended to replace references to the “Animal Control Commission” with the “Animal Matters Commission” to replace the now obsolete name of the Commission.

Section 12-4-202 is amended to repeal § 12-4-202(b), which established appointment process for commissioners, and to amend § 12-4-202(a) to require commissioners appointed to the Animal Matters Commission to be appointed by the County Executive. The rest of the section is renumbered as a result of the repealed section.

Section 12-4-206 is amended to clarify the process for obtaining a hearing before the Commission based on various administrative actions of the Agency as well as to clarify the procedures and powers of the Commission. This section is also revised to set forth the general hearing provisions currently found at § 12-4-403 and make them applicable to other hearings before the Animal Matters Commission.

Sections 12-4-301, 12-4-312, 12-4-611, 12-4-905, and 12-4-907 are amended to replace references to “Animal Control” with the “Agency” in order to provide uniformity to the Title and to clarify that the other authorized representatives are “authorized representatives of the Agency.”

Section 12-4-302 is amended to clarify and detail the power and authority of Agency officers.

Section 12-4-304 is amended to clarify the language requiring a citation to be issued and to replace references to “Animal Control” with the “Agency” in order to provide uniformity to the Title.

Section 12-4-305 is amended to replace references to “an Animal Control citation” with “a citation”, to clarify the options available to a person who receives a citation, and to allow 15 days for a person who receives a citation to appeal that citation to the Animal Matters Commission.

Sections 12-4-306 and 12-4-309 are amended to replace references to “an Animal Control citation” with “a citation” in order to provide uniformity to the Title.

Section 12-4-307 is amended to replace references to “an Animal Control citation” with

“a citation” in order to provide uniformity to the Title. The amendment clarifies the process to be followed by the Agency by requiring that the Agency shall hold a citation for 15 days from the date of service to allow time for an appeal, forward the citation to the Commission upon the filing of an appeal, and forward the citation to District Court if a hearing before the Commission is not requested within 15 days or if a hearing in District Court is requested.

Section 12-4-308 is amended to replace references to “an Animal Control citation” with “a citation” in order to provide uniformity to the Title. The amendment clarifies the duties and authority of the Commission when a citation is appealed. The Commission shall schedule a hearing and, after the hearing, either dismiss the citation or forward the citation to District Court. If the citation is being forwarded to District Court, the Commission may amend the fine amount.

Section 12-4-310 is amended to replace references to “Animal Control” with the “Agency” in order to provide uniformity to the Title and to clarify that the other authorized representatives are “authorized representatives of the Agency.” The Section is also amended to correct the formatting of the section to provide uniformity to the Title.

Sections 12-4-402(b) and 12-4-406 are amended to properly capitalize “Agency” in order to provide uniformity to the Title.

Subsection 12-4-402(e) is amended to remove superfluous language from the Title by eliminating the reference to an animal’s “custodian” because the definition of “owner” includes a custodian and to correct the tense of the language of the section.

Subsection 12-4-403(c) is amended to move the general requirements for Commission hearings to 12-4-206 as they will apply to added appellate processes under added Title provisions.

Section 12-4-502 is amended to clarify that Agency officers may enter a property to protect an animal from cruelty or neglect in accordance with § 12-4-901. The section is also amended to clarify that the Agency officer’s “right of entry” onto private property is limited by due process.

Item 12-4-504(a)(5) is amended to require compliance with any ordered spaying, neutering, and microchipping conditions, as well as the conditions contained in § 12-4-504(a), prior to the redemption of an impounded animal.

Subsection 12-4-504(b) is amended to divide the subsection into §§ 12-4-504(b) and (c). References to “Animal Control” are replaced with “Agency” to provide uniformity to the Title. The current \$25 impoundment fee is replaced with a new fee schedule that provides different fees based on whether an animal is spayed or neutered and increases fees for redemption of an animal that has been impounded multiple times within a 12 month period.

Subsection 12-4-504(c) is renumbered as §12-4-504(d).

Subsection 12-4-504(e) is new and allows the Agency deny redemption of an animal for

up to 14 days while an investigation is being conducted into the circumstances surrounding the animal's impoundment.

Subsection 12-4-504(f) is new and allows the Agency to require as a condition of redemption that a dog or cat that is not spayed or neutered and that is impounded twice within a 12 month period be spayed or neutered prior to redemption.

Subsection 12-4-504(g) is new and establishes a right to appeal the imposition of redemption conditions to the Commission.

Subsection 12-4-504(h) is new and establishes that the process for appealing redemption requirements is governed by § 12-4-206. It also clarifies the authority of the Commission to make recommendations to the Chief, including adding new conditions for redemption.

Subsection 12-4-504(i) allows for the Chief to permit an impounded animal to be redeemed without compliance with the imposed redemption conditions if an appeal of those conditions is pending. The subsection also requires that, if the redemption condition is upheld following appeal, proof of compliance with the condition must be presented to the Agency within 30 days of the decision.

Subsection 12-4-504(j) is new and allows the Agency to require as a condition of redemption that an impounded animal be microchipped if, within the preceding 24 months, the owner has been found guilty, placed on probation before judgment, or paid a citation for an animal owned by the owner constituting a public safety threat, being at large, being a public nuisance, creating a public nuisance condition, creating a disturbance, or being unrestrained on school property.

Paragraph 12-4-702(c)(3) is amended to re-establish the license fee for animals designated as "potentially dangerous" and to add uniformity to the code by removing the ".00" in the "dangerous animal" license fee.

Subsection 12-4-709(c) is amended to add uniformity to the code by removing the ".00" from the license fee.

Section 12-4-715 is amended to correct the Code reference contained in the section and to create uniformity with § 12-4-712 by using replacing the word "order" with "notice".

Subsection 12-4-802(c) is added to incorporate the language of § 10-604 of the Criminal Law Article of the State Code which requires a person with charge or custody of an animal to not "unnecessarily fail to provide the animal with: ... (ii) necessary veterinary care."

Subsection 12-4-802(d) is added to enhance the penalty for a violation of § 12-4-802 from a Class E civil offense to a Class D civil offense.

Subsection 12-4-809(c) is amended enhance the penalty for a violation of §§ 12-4-801 or 12-4-802(b) during a declared severe weather emergency from a Class D civil offense to a Class

C civil offense.

Subsection 12-4-901(a) is amended to incorporate all of the animal cruelty provisions of the Criminal Law Article of the State Code.

Subsection 12-4-901(b) is added to incorporate the language of § 10-615 of the Criminal Law Article of the State Code which authorizes the Agency to seize an animal if necessary for the health of the animal or to protect the animal from cruelty.

Subsection 12-4-901(c) is added to require that, upon the Agency notifying an animal owner that an animal is being seized for a violation of §§ 10-601, et seq. of the Criminal Law Article of the State Code, the animal owner shall surrender all animals in the owner's custody or ownership to the Agency.

Subsection 12-4-901(d) is added to clarify the notification process to be followed by the Agency upon seizing animals under this section.

Subsection 12-4-901(e) is added to clarify what occurs if the Agency is unable to identify the owner of an animal seized under this section.

Subsection 12-4-901(f) is added to create an administrative process for an animal owner to challenge the seizure of the animals and to seek the return of the seized animals.

Subsection 12-4-901(g) is added to establish the rules which govern the Commission hearing and to clarify the burden of proof to be applied.

Subsection 12-4-901(h) is added to define the standard to be used by the Chief when rendering a decision on a petition for the return of a seized animal.

Subsection 12-4-901(i) is added to require the Agency to maintain the animals during the appellate process.

Section 12-4-906 is amended to replace references to "Animal Control" with the "Agency" to provide uniformity to the Title and to authorize law enforcement officers to enforce this provision by issuing notices.

Section 12-4-910 is amended to replace references to "Animal Control" with the "Agency" in order to provide uniformity to the Title and to clarify that the other authorized representatives are "authorized representatives of the Agency." Additionally the section limits the responsibility of removing animal carcasses to county roads.

Subsection 12-4-913(a) is added to allow the Agency to designate an animal owner as a "Reckless Animal Owner" upon the owner being found guilty of violating the provisions of the Article three or more times within a 24 month period. This subsection also defines what "found guilty" means for the purpose of this section.

Subsection 12-4-913(b) is added to define the notice requirements the Agency must adhere to when designating an individual a “Reckless Animal Owner”.

Subsection 12-4-913(c) is added to establish an appellate process for an individual designated as a “Reckless Animal Owner”.

Subsection 12-4-913(d) is added to establish the rules which govern the Commission hearing and to clarify the burden of proof to be used.

Subsection 12-4-913(e) is added to prohibit an owner designated as a “Reckless Animal Owner” from owning or keeping any animal for 48 months from the date the owner was so designated.

Section 2. (uncodified) provides that the bill takes effect 45 days after it becomes law.

The Office of Law is available to answer any additional questions regarding this Bill.
Thank you.

cc: Honorable Steuart Pittman, County Executive
Matthew Power, Chief Administrative Officer
Dr. Kai Boggess-de Bruin, Chief of Staff
Peter Baron, Legislative Liaison
Jim Beauchamp, Budget Officer
Robin Catlett, Administrator of Animal Care and Control
William Lowry, Interim Chief of Police