

MAINE STATE LEGISLATURE

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SMG
ROFS

Minority

L.D. 703

Date: 6/13/2013

(Filing No. S-783)

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CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 252, L.D. 703, Bill, "An Act To Make Post-conviction Possession of Animals a Criminal Offense"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 7 MRSA §3910-C is enacted to read:

§3910-C. Possession of animals prohibited for certain persons

1. Possession prohibited. Except as provided in subsection 2, a person convicted of cruelty to animals under Title 17, section 1031 may not own, possess, have on that person's premises or have under that person's control an animal for not less than 5 years from the date of entry of conviction for a Class D crime under Title 17, section 1031 or not less than 15 years from the date of entry of conviction for a Class C crime under Title 17, section 1031. A person who violates this subsection commits a Class D crime.

2. Application for relief. A person subject to subsection 1 may apply to the commissioner for relief from the period of time the person may not own, possess, have on that person's premises or have under that person's control an animal no sooner than one year after entry of conviction for a Class D crime and no sooner than 5 years after entry of conviction for a Class C crime.

A. The commissioner shall schedule a hearing on the application for relief under this subsection within 60 days after the filing of the application. The applicant bears the burden of proof by a preponderance of the evidence that the person:

- (1) Does not present a danger to animals;**
- (2) Has the ability to properly care for an animal; and**
- (3) Has successfully completed all classes or counseling ordered by a court.**

B. The commissioner may reduce the period of time the person may not own, possess or have on the person's premises or have under that person's control an animal by an amount of time determined appropriate by the commissioner.

COMMITTEE AMENDMENT

1 C. The commissioner may require that the person comply with reasonable and
2 unannounced inspections for a period of time the commissioner determines
3 appropriate by an appropriate government or law enforcement agency for the purpose
4 of ensuring compliance with this section.

5 D. The commissioner may revoke any reduction in time granted pursuant to
6 paragraph B if the commissioner finds that the person no longer satisfies the
7 conditions of paragraph A, subparagraph (1) or (2). A person whose reduction of
8 time has been revoked may not reapply for a reduction in time.

9 **3. Application for final relief.** A person subject to subsection 1 may apply to the
10 commissioner for final relief from the period of time the person may not own, possess,
11 have on the person's premises or have under that person's control an animal no sooner
12 than 5 years after entry of conviction for a Class D crime and no sooner than 15 years
13 after entry of conviction for a Class C crime. The commissioner shall schedule a hearing
14 on the application for final relief within 60 days after the filing of the application. The
15 commissioner may grant final relief if the person meets the conditions under subsection 2,
16 paragraph A, subparagraphs (1) and (2). A person may not reapply for final relief more
17 frequently than every 2 years.

18 **4. Contents.** Applications under subsections 2 and 3 must be in a form determined
19 by the commissioner.

20 **5. Filing fee.** The commissioner may establish a reasonable filing fee not to exceed
21 \$25 to defray costs of processing applications.

22 **6. Rules.** The commissioner may adopt rules to implement the provisions of this
23 section. Rules adopted pursuant to this subsection are routine technical rules as defined
24 by Title 5, chapter 375, subchapter 2-A.'

25 SUMMARY

26 This amendment is the minority report and replaces the bill. It provides that a person
27 convicted of cruelty to animals may not own, possess, have on that person's premises or
28 have under that person's control an animal for at least 5 years for a Class D conviction for
29 cruelty to animals or for at least 15 years for a Class C conviction for cruelty to animals
30 and makes a violation of this prohibition a Class D crime.

31 It provides that the Commissioner of Agriculture, Conservation and Forestry may
32 reduce the period of time a person convicted of cruelty to animals is prohibited from
33 having an animal upon application by the person subject to the prohibition. The
34 commissioner may revoke the reduction in time granted if the commissioner finds that the
35 person is a danger to animals or no longer has the ability to properly care for an animal.
36 A person whose reduction of time has been revoked may not reapply for a reduction in
37 time.

38 This amendment provides that a person subject to a prohibition for conviction of
39 cruelty to animals may apply to the commissioner for final relief from the period of time
40 the person is prohibited from having an animal no sooner than 5 years after entry of
41 conviction for a Class D crime and no sooner than 15 years after entry of conviction for a

1 Class C crime. A person may not reapply for final relief more frequently than every 2
2 years.

3 Finally, it authorizes the Commissioner of Agriculture, Conservation and Forestry to
4 establish an application filing fee of not more than \$25 to cover the costs of processing
5 applications.

FISCAL NOTE REQUIRED
(See attached)



126th MAINE LEGISLATURE

LD 703

LR 1423(02)

An Act To Make Post-conviction Possession of Animals a Criminal Offense

Fiscal Note for Bill as Amended by Committee Amendment "A" (5-283)

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - General Fund

Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes new Class D crimes.

The collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

The average length of sentence for a Class D crime is 62 days at an average cost per day of \$118.04. The average cost to the Maine Commission on Indigent Legal Services for a Class D crime is \$460.

Additional costs to the Department of Agriculture, Conservation and Forestry associated with implementing this legislation can be absorbed within existing budgeted resources.