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# A BILL FOR AN ACT

RELATING TO ANIMAL CRUELTY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 711-1109.1, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsection (1) to read:

4 "(1) If there is probable cause to believe that a pet  
5 animal or equine animal is being subjected to treatment in  
6 violation of section 711-1108.5, 711-1109, 711-1109.3, 711-  
7 1109.6, or 711-1109.35, as applicable, a law enforcement  
8 officer, after obtaining a search warrant, or in any other  
9 manner authorized by law, may enter the premises where the pet  
10 animal or equine animal is located to provide the pet animal or  
11 equine animal with food, water, and emergency medical treatment  
12 or to impound the pet animal[-] or equine animal. If after  
13 reasonable effort, the owner or person having custody of the pet  
14 animal or equine animal cannot be found and notified of the  
15 impoundment, an impoundment notice shall be conspicuously posted  
16 on the premises and within seventy-two hours after posting, the  
17 notice shall be sent by certified mail to the address, if any,  
18 from which the pet animal or equine animal was removed."



1           2. By amending subsection (3) to read:

2           "(3) A court may order a pet animal or equine animal  
3 impounded under subsection (1) to be held at a duly incorporated  
4 humane society or duly incorporated society for the prevention  
5 of cruelty to animals. A facility receiving the pet animal or  
6 equine animal shall provide adequate food and water and may  
7 provide veterinary care."

8           SECTION 2. Section 711-1109.2, Hawaii Revised Statutes, is  
9 amended to read as follows:

10           "**§711-1109.2 Forfeiture of animal prior to disposition of**  
11 **criminal charges.** (1) If any pet animal or equine animal is  
12 impounded pursuant to section 711-1109.1, prior to final  
13 disposition of [~~the~~] a criminal charge under section 711-1108.5,  
14 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable,  
15 against the pet animal's or equine animal's owner, any duly  
16 incorporated humane society or duly incorporated society for the  
17 prevention of cruelty to animals that is holding the pet animal  
18 or equine animal may file a petition in the criminal action  
19 requesting that the court issue an order for forfeiture of the  
20 pet animal or equine animal to the county or to the duly  
21 incorporated humane society or duly incorporated society for the  
22 prevention of cruelty to animals prior to final disposition of



1 the criminal charge. The petitioner shall serve a true copy of  
2 the petition upon the defendant and the prosecuting attorney.

3 (2) Upon receipt of a petition pursuant to subsection (1),  
4 the court shall set a hearing on the petition. The hearing  
5 shall be conducted within fourteen days after the filing of the  
6 petition, or as soon as practicable.

7 (3) At a hearing conducted pursuant to subsection (2), the  
8 petitioner shall have the burden of establishing probable cause  
9 that the pet animal or equine animal was subjected to a  
10 violation of section 711-1108.5, 711-1109, 711-1109.3, 711-  
11 1109.6, or 711-1109.35[-], as applicable. If the court finds  
12 that probable cause exists, the court shall order immediate  
13 forfeiture of the pet animal or equine animal to the petitioner,  
14 unless the defendant, within seventy-two hours of the hearing:

15 (a) Posts a security deposit or bond with the court clerk  
16 in an amount determined by the court to be sufficient  
17 to repay all reasonable costs incurred, and  
18 anticipated to be incurred, by the petitioner in  
19 caring for the pet animal or equine animal from the  
20 date of initial impoundment to the date of trial; or



1 (b) Demonstrates to the court that proper alternative care  
2 has been arranged for the pet animal[-] or equine  
3 animal.

4 Notwithstanding subsection (3)(a), a court may waive, for good  
5 cause shown, the requirement that the defendant post a security  
6 deposit or bond.

7 (4) If a security deposit or bond has been posted in  
8 accordance with subsection (3)(a), the petitioner may draw from  
9 the security deposit or bond the actual reasonable costs  
10 incurred by the petitioner in caring for the pet animal or  
11 equine animal until the date of final disposition of the  
12 criminal action. If the trial is continued to a later date, any  
13 order of continuance shall require the defendant to post an  
14 additional security deposit or bond in an amount determined by  
15 the court that shall be sufficient to repay all additional  
16 reasonable costs anticipated to be incurred by the petitioner in  
17 caring for the pet animal or equine animal until the date of  
18 final disposition of the criminal action, and the petitioner may  
19 draw from the additional security deposit or bond as necessary.

20 (5) No pet animal or equine animal may be destroyed by a  
21 petitioner under this section prior to final disposition of  
22 [~~the~~] a criminal charge under section 711-1108.5, 711-1109, 711-



1 1109.3, 711-1109.6, or 711-1109.35, as applicable, against the  
2 pet animal's or equine animal's owner, except in the event that  
3 the pet animal or equine animal is so severely injured that  
4 there is no reasonable probability that its life can be saved.

5 (6) Forfeiture of a pet animal or equine animal under this  
6 section shall not be subject to the provisions of chapter 712A.

7 (7) In addition to any reasonable costs incurred under  
8 subsection (4) by the petitioner in the caring for the pet  
9 animal or equine animal, the court may award reasonable  
10 attorney's fees and court costs to the petitioner following the  
11 conviction of the defendant.

12 (8) As used in this section, "pet animal or equine animal"  
13 includes any offspring from the pet animal or equine animal that  
14 was pregnant at the time of the rescue and born during the  
15 impoundment of the pet animal or equine animal."

16 SECTION 3. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun before its effective date.

19 SECTION 4. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 5. This Act shall take effect on July 1, 2012;  
22 provided that the amendments made to sections 711-1109.1 and



1 711-1109.2, Hawaii Revised Statutes, by sections 1 and 2 of this  
2 Act, shall not be repealed when section 711-1109.1(1) and  
3 sections 711-1109.2(1), (3), and (5), Hawaii Revised Statutes,  
4 are reenacted on July 1, 2015, pursuant to Act 149, Session Laws  
5 of Hawaii 2011.



**Report Title:**

Cruelty to Animals; Equine Animals

**Description:**

Extends procedures for impoundment and forfeiture for cruelty to animal offenses to equine animals to the same extent as pet animals. Effective July 1, 2012. (SB2503 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

