
A BILL FOR AN ACT

RELATING TO ANIMAL FORFEITURE.

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

1 SECTION 1. The legislature finds that the final
2 disposition of rescued animals can be delayed while preparing
3 for a criminal case, especially when large numbers of animals
4 are involved. This delay can impose extraordinary costs and
5 strains upon the incorporated humane society or incorporated
6 society that is tasked with the care of the animals; postpone
7 the full recovery of the animals that are being held
8 unnecessarily; and prevent the adoption of the rescued animals.

9 The purpose of this Act is to clarify that an incorporated
10 humane society or incorporated society for the prevention of
11 cruelty to animals may petition the court for the forfeiture of
12 an impounded animal prior to the filing or disposition of
13 criminal charges against the owner of the animal that arise from
14 circumstances supporting the impoundment.

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

17 "**§711-1109.2 Forfeiture of animal prior to filing of or**
18 **final disposition of criminal charges.** (1) If any pet animal



1 or equine animal is impounded pursuant to section 711-1109.1,
2 prior to filing of, or final disposition of a criminal charge
3 under section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.35,
4 as applicable, against the pet animal's or equine animal's
5 owner, any duly incorporated humane society or duly incorporated
6 society for the prevention of cruelty to animals that is holding
7 the pet animal or equine animal may file a petition in the court
8 that would have jurisdiction over the criminal case when the
9 criminal charge is filed, if the petition is filed prior to the
10 filing of the criminal charge, or in the criminal action
11 requesting that the court issue an order for forfeiture of the
12 pet animal or equine animal to the county or to the duly
13 incorporated humane society or duly incorporated society for the
14 prevention of cruelty to animals prior to the filing of the
15 criminal charge that arises from the impoundment or final
16 disposition of the criminal charge. The petitioner shall serve
17 a true copy of the petition upon the owner or custodian of the
18 impounded pet animal or equine animal, when a petition is filed
19 prior to the filing of the criminal charge, or the defendant, in
20 the criminal action, and the prosecuting attorney.



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

5 (3) At a hearing conducted pursuant to subsection (2), the
6 petitioner shall have the burden of establishing probable cause
7 that the pet animal or equine animal was subjected to a
8 violation of section 711-1108.5, 711-1109, 711-1109.3, or
9 711-1109.35, as applicable. If the court finds that probable
10 cause exists, the court shall order immediate forfeiture of the
11 pet animal or equine animal to the petitioner, unless the owner
12 or custodian of the impounded pet animal or equine animal, when
13 a petition is filed prior to the filing of the criminal charge,
14 or the defendant, in the criminal action, within seventy-two
15 hours of the hearing:

16 (a) Posts a security deposit or bond with the court clerk
17 in an amount determined by the court to be sufficient
18 to repay all reasonable costs incurred, and
19 anticipated to be incurred, by the petitioner in
20 caring for the pet animal or equine animal from the
21 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 animal.
3 Notwithstanding subsection (3)(a), a court may waive, for good
4 cause shown, the requirement that the owner or custodian of the
5 impounded pet animal or equine animal, when a petition is filed
6 prior to the filing of the criminal charge, or the defendant, in
7 the criminal action, post a security deposit or bond.

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



1 criminal action, and the petitioner may draw from the additional
2 security deposit or bond as necessary.

3 (5) No pet animal or equine animal may be destroyed by a
4 petitioner under this section prior to final disposition of a
5 criminal charge under section 711-1108.5, 711-1109, 711-1109.3,
6 or 711-1109.35, as applicable, against the pet animal's or
7 equine animal's owner, except in the event that the pet animal
8 or equine animal is a danger to itself or others, or so severely
9 injured that there is no reasonable probability that its life
10 can be saved.

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

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

18 (8) As used in this section, "pet animal or equine animal"
19 includes any offspring from the pet animal or equine animal that
20 was pregnant at the time of the rescue and born during the
21 impoundment of the pet animal or equine animal.



1 (9) An acquittal or dismissal in a criminal proceeding
2 shall not preclude civil proceedings under this chapter."

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

6 SECTION 4. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Forfeiture; Pet Animals; Equine Animals; Duly Incorporated Humane Societies and Duly Incorporated Societies for the Prevention of Cruelty to Animals; Petition

Description:

Permits duly incorporated humane societies and duly incorporated societies for the prevention of cruelty to animals to petition for full custody of an impounded pet animal or equine animal prior to the filing of certain criminal charges against the owner or custodian of the pet animal or equine animal. Allows a pet animal or equine animal to be destroyed by the petitioner prior to final disposition of certain criminal charges if the pet animal or equine animal is a danger to itself or others. Clarifies that an acquittal or dismissal in a criminal proceeding does not preclude civil proceedings under animal cruelty offenses. (HB1516 CD1)

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