

---

**SUBSTITUTE HOUSE BILL 2644**

---

**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Blake, Muri, Van De Wege, Jenkins, Kretz, Short, Fitzgibbon, Rossetti, and McBride)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to animal forfeiture in animal cruelty cases; and  
2 amending RCW 16.52.085 and 16.52.200.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 16.52.085 and 2011 c 172 s 3 are each amended to  
5 read as follows:

6 (1) If a law enforcement officer or animal control officer has  
7 probable cause to believe that an owner of a domestic animal has  
8 violated this chapter or a person owns, cares for, or resides with an  
9 animal in violation of an order issued under RCW 16.52.200(4) and no  
10 responsible person can be found to assume the animal's care, the  
11 officer may authorize, with a warrant, the removal of the animal to a  
12 suitable place for feeding and care, or may place the animal under  
13 the custody of an animal care and control agency. In determining what  
14 is a suitable place, the officer shall consider the animal's needs,  
15 including its size and behavioral characteristics. An officer may  
16 remove an animal under this subsection without a warrant only if the  
17 animal is in an immediate life-threatening condition.

18 (2) If a law enforcement officer or an animal control officer has  
19 probable cause to believe a violation of this chapter has occurred,  
20 the officer may authorize an examination of a domestic animal  
21 allegedly neglected or abused in violation of this chapter by a

1 veterinarian to determine whether the level of neglect or abuse in  
2 violation of this chapter is sufficient to require removal of the  
3 animal. This section does not condone illegal entry onto private  
4 property.

5 (3) Any owner whose domestic animal is removed pursuant to this  
6 chapter shall be given written notice of the circumstances of the  
7 removal and notice of legal remedies available to the owner. The  
8 notice shall be given by posting at the place of seizure, by delivery  
9 to a person residing at the place of seizure, or by registered mail  
10 if the owner is known. In making the decision to remove an animal  
11 pursuant to this chapter, the officer shall make a good faith effort  
12 to contact the animal's owner before removal.

13 (4) The agency having custody of the animal may euthanize the  
14 animal or may find a responsible person to adopt the animal not less  
15 than fifteen (~~business~~) calendar days after the animal is taken  
16 into custody. A custodial agency may euthanize severely injured,  
17 diseased, or suffering animals at any time. An owner may prevent the  
18 animal's destruction or adoption by: (a) Petitioning the district  
19 court of the county where the animal was seized for the animal's  
20 immediate return subject to court-imposed conditions, or (b) posting  
21 a bond or security in an amount sufficient to provide for the  
22 animal's care for a minimum of thirty days from the seizure date. If  
23 the custodial agency still has custody of the animal when the bond or  
24 security expires, the animal shall become the agency's property  
25 unless the court orders an alternative disposition. If a court order  
26 prevents the agency from assuming ownership and the agency continues  
27 to care for the animal, the court shall order the owner to post or  
28 renew a bond or security for the agency's continuing costs for the  
29 animal's care. When a court has prohibited the owner from owning,  
30 caring for, or residing with a similar animal under RCW 16.52.200(4),  
31 the agency having custody of the animal may assume ownership upon  
32 seizure and the owner may not prevent the animal's destruction or  
33 adoption by petitioning the court or posting a bond.

34 (5) If no criminal case is filed within fourteen (~~business~~)  
35 calendar days of the animal's removal, the owner may petition the  
36 district court of the county where the animal was removed for the  
37 animal's return. The petition shall be filed with the court(~~with~~  
38 with). Copies of the petition must be served (~~to~~) on the law  
39 enforcement or animal care and control agency responsible for  
40 removing the animal and to the prosecuting attorney on the same day

1 that the petition is filed with the court. If the court grants the  
2 petition, the agency which seized the animal must ~~((deliver))~~  
3 surrender the animal to the owner at no cost to the owner. If a  
4 criminal action is filed after the petition is filed but before the  
5 ~~((animal is returned,))~~ hearing on the petition, then the petition  
6 shall be joined with the criminal matter.

7 (6) In a motion or petition for the animal's return before a  
8 trial, the burden is on the owner to prove by a preponderance of the  
9 evidence that the animal will not suffer future neglect or abuse and  
10 is not in need of being restored to health.

11 (7) Any authorized person treating or attempting to restore an  
12 animal to health under this chapter shall not be civilly or  
13 criminally liable for such action.

14 **Sec. 2.** RCW 16.52.200 and 2011 c 172 s 4 are each amended to  
15 read as follows:

16 (1) The sentence imposed for a misdemeanor or gross misdemeanor  
17 violation of this chapter may be deferred or suspended in accordance  
18 with RCW 3.66.067 and 3.66.068, however the probationary period shall  
19 be two years.

20 (2) In case of multiple misdemeanor or gross misdemeanor  
21 convictions, the sentences shall be consecutive, however the  
22 probationary period shall remain two years.

23 (3) In addition to the penalties imposed by the court, the court  
24 shall order the forfeiture of all animals held by law enforcement or  
25 animal care and control authorities under the provisions of this  
26 chapter if any one of the animals involved dies as a result of a  
27 violation of this chapter or if the defendant has a prior conviction  
28 under this chapter. In other cases the court may enter an order  
29 requiring the owner to forfeit the animal if the court deems the  
30 animal's treatment to have been severe and likely to reoccur.

31 (4) Any person convicted of animal cruelty shall be prohibited  
32 from owning, caring for, or residing with any similar animals for a  
33 period of time as follows:

34 (a) Two years for a first conviction of animal cruelty in the  
35 second degree under RCW 16.52.207;

36 (b) Permanently for a first conviction of animal cruelty in the  
37 first degree under RCW 16.52.205;

38 (c) Permanently for a second or subsequent conviction of animal  
39 cruelty, except as provided in subsection (5) of this section.

1 (5) If a person has no more than two convictions of animal  
2 cruelty and each conviction is for animal cruelty in the second  
3 degree, the person may petition the sentencing court in which the  
4 most recent animal cruelty conviction occurred, for a restoration of  
5 the right to own or possess a similar animal five years after the  
6 date of the second conviction. In determining whether to grant the  
7 petition, the court shall consider, but not be limited to, the  
8 following:

9 (a) The person's prior animal cruelty in the second degree  
10 convictions;

11 (b) The type of harm or violence inflicted upon the animals;

12 (c) Whether the person has completed the conditions imposed by  
13 the court as a result of the underlying convictions;

14 (d) Whether the person complied with the prohibition on owning,  
15 caring for, or residing with similar animals; and

16 (e) Any other matters the court finds reasonable and material to  
17 consider in determining whether the person is likely to abuse another  
18 animal.

19 The court may delay its decision on forfeiture under subsection  
20 (3) of this section until the end of the probationary period.

21 (6) In addition to fines and court costs, the defendant, only if  
22 convicted or in agreement, shall be liable for reasonable costs  
23 incurred pursuant to this chapter by law enforcement agencies, animal  
24 care and control agencies, or authorized private or public entities  
25 involved with the care of the animals. Reasonable costs include  
26 expenses of the investigation, and the animal's care, euthanization,  
27 or adoption.

28 (7) If convicted, the defendant shall also pay a civil penalty of  
29 one thousand dollars to the county to prevent cruelty to animals.  
30 These funds shall be used to prosecute offenses under this chapter  
31 and to care for forfeited animals pending trial.

32 (8) If a person violates the prohibition on owning, caring for,  
33 or residing with similar animals under subsection (4) of this  
34 section, that person:

35 (a) Shall pay a civil penalty of one thousand dollars for the  
36 first violation;

37 (b) Shall pay a civil penalty of two thousand five hundred  
38 dollars for the second violation; and

39 (c) Is guilty of a gross misdemeanor for the third and each  
40 subsequent violation.

1           (9) As a condition of the sentence imposed under this chapter or  
2 RCW 9.08.070 through 9.08.078, the court may also order the defendant  
3 to participate in an available animal cruelty prevention or education  
4 program or obtain available psychological counseling to treat mental  
5 health problems contributing to the violation's commission. The  
6 defendant shall bear the costs of the program or treatment.

7           (10) Nothing in this section limits the authority of a law  
8 enforcement officer, animal control officer, custodial agency, or  
9 court to remove, adopt, euthanize, or require forfeiture of an animal  
10 under RCW 16.52.085.

--- END ---