
HOUSE BILL 1234

State of Washington

68th Legislature

2023 Regular Session

By Representatives Goodman, Eslick, Peterson, Leavitt, Fitzgibbon, Bateman, Walen, Stearns, and Pollet

Read first time 01/11/23. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to the civil forfeiture of animals seized for
2 abuse or neglect; amending RCW 16.52.085; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

5 (1) The use of preconviction civil remedies is not an affront to
6 the presumption of innocence and shall be used to satisfy the
7 interest of the state in mitigating the suffering of animals by
8 expediting the disposition of animal victims seized during animal
9 cruelty investigations.

10 (2) Washington has an interest in facilitating the mitigation of
11 costs of care incurred by a government agency, an animal care and
12 control agency or its agent, or a person or agency that provides
13 treatment for seized animals. A government agency, an animal care and
14 control agency or its agent, or a person or agency that provides care
15 and treatment for seized animals may mitigate the costs of the care
16 and treatment through funding that is separate from, and in addition
17 to, any recovery of reasonable costs that a court orders a defendant
18 to pay while a forfeiture proceeding is pending or subsequent to a
19 conviction.

20 (3) The purpose of this act is to provide a means by which a
21 neglected or abused animal, an animal involved in animal fighting, or

1 an animal kept in violation of RCW 16.52.200 or a court order may be
2 removed from its present custody and protected, cared for, and
3 disposed of appropriately and humanely.

4 **Sec. 2.** RCW 16.52.085 and 2020 c 158 s 3 are each amended to
5 read as follows:

6 (1) For the purposes of this section:

7 (a) "Minimum care" means care sufficient to preserve the physical
8 and mental health and well-being of an animal and includes, but is
9 not limited to, the following requirements:

10 (i) Food of sufficient nutrition, quantity, and quality to allow
11 for normal growth or maintenance of healthy body weight;

12 (ii) Open or adequate access to potable water of a drinkable
13 temperature in sufficient quantity to satisfy the animal's needs;

14 (iii) Shelter sufficient to protect the animal from wind, rain,
15 snow, sun, or other environmental or weather conditions based on the
16 animal's species, age, or physical condition;

17 (iv) Veterinary or other care deemed necessary by a reasonably
18 prudent person to prevent or relieve in a timely manner distress from
19 injury, neglect, or physical infirmity; and

20 (v) Continuous access to an area:

21 (A) With adequate space for exercise necessary for the physical
22 and mental health and well-being of the animal. Inadequate space may
23 be indicated by evidence of debility, stress, or abnormal behavior
24 patterns;

25 (B) With temperature and ventilation suitable for the health and
26 well-being of the animal based on the animal's species, age, or
27 physical condition;

28 (C) With regular diurnal lighting cycles of either natural or
29 artificial light; and

30 (D) Kept reasonably clean and free from excess waste, garbage,
31 noxious odors, or other contaminants, objects, or other animals that
32 could cause harm to the animal's health and well-being.

33 (b) "Physical infirmity" includes, but is not limited to,
34 starvation, dehydration, hypothermia, hyperthermia, muscle atrophy,
35 restriction of blood flow to a limb or organ, mange or other skin
36 disease, or parasitic infestation.

37 (c) "Physical injury" includes, but is not limited to,
38 substantial physical pain, fractures, cuts, burns, punctures,

1 bruises, or other wounds or illnesses produced by violence or by a
2 thermal or chemical agent.

3 (d) "Serious physical injury or infirmity" means physical injury
4 or physical infirmity that creates a substantial risk of death or
5 that causes protracted disfigurement, protracted impairment of
6 health, or protracted loss or impairment of the function of a limb or
7 bodily organ.

8 (2)(a) If a law enforcement officer or animal control officer has
9 probable cause to believe that an owner of a domestic animal has
10 violated this chapter or a person owns, cares for, or resides with an
11 animal in violation of ((an order issued under)) RCW 16.52.200((4)
12 and no responsible person can be found to assume the animal's care))
13 or an order issued under RCW 16.52.205 or 16.52.207, the officer
14 ((may authorize, with)), after obtaining a warrant, ((the removal of
15 the animal to a suitable place for feeding and care, or may place the
16 animal under the custody of an animal care and control agency. In
17 determining what is a suitable place, the officer shall consider the
18 animal's needs, including its size and behavioral characteristics. An
19 officer may remove an animal under this subsection without a warrant
20 only if the animal is in an immediate life-threatening condition))
21 shall enter the premises where the animal is located and seize the
22 animal.

23 ((2)) (b) If a law enforcement officer or an animal control
24 officer has probable cause to believe ((a violation of this chapter
25 has occurred)) an animal is in imminent danger or is suffering
26 serious physical injury or infirmity, or needs immediate medical
27 attention, the officer may ((authorize an examination of a domestic
28 animal allegedly neglected or abused in violation of this chapter by
29 a veterinarian to determine whether the level of neglect or abuse in
30 violation of this chapter is sufficient to require removal of the
31 animal. This section does not condone illegal entry onto private
32 property)) enter onto private property without a warrant to:

33 (i) Render emergency aid to the animal; or

34 (ii) Seize the animal without a warrant. Any animal seized
35 without a warrant shall immediately be brought to a veterinarian
36 licensed in the state of Washington to provide medical attention and
37 to assess the health of the animal.

38 (c) A law enforcement officer or an animal control officer is not
39 liable for any damages for entry onto private property without a
40 warrant under this section, provided that the officer does not use

1 any more force than is reasonably necessary to enter upon the
2 property and remove the animal.

3 (3)(a) An animal seized under this section may be placed into the
4 custody of an animal care and control agency, into foster care that
5 is not associated in any way with the owner, or with a nonprofit
6 humane society, nonprofit animal sanctuary, or nonprofit rescue
7 organization. In determining what is a suitable placement, the
8 officer shall consider the animal's needs, including its size,
9 medical needs, and behavioral characteristics. Any person or
10 custodial agency receiving an animal seized under this section shall
11 provide the animal with minimum care.

12 (b) If a seized animal is placed into foster care or with a
13 nonprofit animal sanctuary or rescue organization, the seizing agency
14 shall retain constructive custody of the animal, shall have the duty
15 to ensure the animal receives minimum care, and may draw from the
16 bond under subsection (5) of this section and distribute the funds to
17 the foster home, authorized humane society, sanctuary, or rescue
18 organization that is authorized to care for the animal.

19 (4) The owner from whom the animal was seized shall be provided
20 with notice of the right to petition for immediate return of the
21 animal and shall be afforded an opportunity to petition for such a
22 civil hearing before the animal is deemed abandoned and forfeited.
23 Any owner whose ((domestic)) animal is ((removed pursuant to this
24 chapter)) seized by a law enforcement officer or animal control
25 officer under this section shall, within 72 hours following the
26 seizure, be given written notice of the circumstances of the removal
27 and notice of legal remedies available to the owner. The notice shall
28 be given by posting at the place of seizure, by delivery to the last
29 known or suspected owner in person or a person residing at the place
30 of seizure, or by registered mail ((if the owner is known)) to the
31 last known or suspected owner. ((In making the decision to remove an
32 animal pursuant to this chapter, the officer shall make a good faith
33 effort to contact the animal's owner before removal)) Such notice
34 shall include:

35 (a) The name, business address, and telephone number of the law
36 enforcement agency or animal care and control agency responsible for
37 seizing the animal;

38 (b) A description of the seized animal;

39 (c) The authority and purpose for the seizure, including the
40 time, place, and circumstances under which the animal was seized;

1 (d) A statement that the owner is responsible for the cost of
2 care for an animal who was lawfully seized, and that the owner will
3 be required to post a bond with the clerk of the district court of
4 the county from which the animal was seized to defray the cost of
5 minimum care pursuant to subsection (5) of this section within 14
6 calendar days of the seizure or the animal will be deemed abandoned
7 and forfeited; and

8 (e) A statement that the owner has a right to petition the
9 district court for a civil hearing for immediate return of the animal
10 and that in order to receive a hearing, the owner or owner's agent
11 must request the civil hearing by signing and returning to the court
12 an enclosed petition within 14 calendar days after the date of
13 seizure. The enclosed petition must be in substantially the same form
14 as set forth in subsection (13) of this section.

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

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

1 ~~responsible for removing the animal and to the prosecuting attorney.~~
2 ~~If the court grants the petition, the agency which seized the animal~~
3 ~~must 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 ~~hearing on the petition, then the petition shall be joined with the~~
6 ~~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))~~ (5) (a) When an animal is seized pursuant to this section,
12 the owner shall post a bond with the district court in an amount
13 sufficient to provide minimum care for each animal seized for 30
14 days, including the day on which the animal was taken into custody,
15 regardless of whether the animal is the subject of a criminal charge.
16 Such bond shall be filed with the clerk of the district court of the
17 county from which the animal was seized within 14 calendar days after
18 the day the animal is seized.

19 (b) (i) If an owner fails to post a bond by 5:00 p.m. on the 14th
20 calendar day after the day the animal was seized as required under
21 this section, the animal shall be deemed abandoned and the owner's
22 interest in the animal shall be forfeited to the custodial agency by
23 operation of law in accordance with the notice provided in subsection
24 (4) of this section.

25 (ii) A petition required by subsection (4) (e) of this section may
26 be filed in the district court of the county from which an animal was
27 seized concerning any animal seized pursuant to this section. Copies
28 of the petition must be served on the law enforcement agency or
29 animal care and control agency responsible for seizing the animal and
30 the prosecuting attorney.

31 (iii) An owner's failure to file a written petition by 5:00 p.m.
32 on the 14th calendar day after the day the animal was seized shall
33 constitute a waiver of the right to file a petition under this
34 subsection and the animal shall be deemed abandoned and the owner's
35 interest in the animal forfeited to the custodial agency by operation
36 of law unless a bond has been posted pursuant to this subsection (5).
37 The court may extend the 14-day period to file a written petition by
38 an additional 14 calendar days if the petitioner did not have actual
39 notice of the seizure and the court finds, on the record and in

1 writing, that there are exceptional and compelling circumstances
2 justifying the extension.

3 (c) (i) Upon receipt of a petition pursuant to (b) of this
4 subsection, the court shall set a civil hearing on the petition. The
5 hearing shall be conducted within 30 calendar days after the filing
6 of the petition.

7 (ii) At the hearing requested by the owner, the rules of civil
8 procedure shall apply and the respondent shall have the burden of
9 establishing probable cause to believe that the seized animal was
10 subjected to a violation of this chapter. The owner shall have an
11 opportunity to be heard before the court makes its final finding. If
12 the court finds that probable cause exists, the court shall order the
13 owner to post a bond as required by this subsection (5) within 72
14 hours of the hearing, and if the owner fails to do so, the seized
15 animal shall be deemed abandoned and the owner's interest in the
16 animal shall be forfeited to the custodial agency by operation of
17 law. If the respondent does not meet its burden of proof, the court
18 may order the animal returned to the owner at no cost to the owner,
19 subject to conditions set by the court.

20 (d) (i) If a bond has been posted in accordance with this
21 subsection (5), subsequent court proceedings shall be given court
22 calendar priority so long as the animal remains in the custody of the
23 custodial agency and the custodial agency may draw from the bond the
24 actual reasonable costs incurred by the agency in providing minimum
25 care to the animal from the date of seizure to the date of final
26 disposition of the animal in the criminal action.

27 (ii) At the end of the time for which expenses are covered by the
28 bond, if the owner seeks to prevent disposition of the animal by the
29 custodial agency, the owner shall post a new bond with the court
30 within 72 hours following the prior bond's expiration. If an owner
31 fails to post or renew a bond as required under this subsection (5),
32 the animal shall be deemed abandoned and the owner's interest in the
33 animal shall be forfeited to the custodial agency by operation of
34 law.

35 (e) For the purposes of this subsection (5), "animal" includes
36 all unborn offspring of the seized animal and all offspring of the
37 seized animal born after the animal was seized.

38 (6) When an animal is seized from a person prohibited from
39 owning, caring for, possessing, or residing with animals under RCW
40 16.52.200 or an order issued pursuant to RCW 16.52.205 or 16.52.207,

1 the animal is immediately and permanently forfeited by operation of
2 law to the custodial agency and no court action is necessary.

3 (7) If an animal is forfeited to a custodial agency according to
4 the provisions of this section, the agency to which the animal was
5 forfeited may place the animal with a new owner; provided that the
6 agency may not place the animal with family members or friends of the
7 former owner or with anyone who lives in the same household as the
8 former owner. At the time of placement, the agency must provide the
9 new owner with notice that it may constitute a crime for the former
10 owner to own, care for, possess, or reside with the animal at any
11 time in the future.

12 (8) A custodial agency may authorize a veterinarian or veterinary
13 technician licensed in the state of Washington to euthanize a seized
14 animal that is severely injured, sick, diseased, or suffering for
15 humane reasons at any time.

16 (9) Nothing in this chapter shall be construed to prevent the
17 voluntary, permanent relinquishment of any animal by its owner to a
18 law enforcement officer, animal control officer, or animal care and
19 control agency. Voluntary relinquishment has no effect on the
20 criminal charges that may be pursued by the appropriate authorities.

21 (10) Nothing in this chapter requires court action for taking
22 custody of, caring for, and properly disposing of stray, feral, at-
23 large, or abandoned animals, or wild animals not owned or kept as
24 pets or livestock, as lawfully performed by law enforcement agencies
25 or animal care and control agencies.

26 (11) Any authorized person caring for, treating, or attempting to
27 restore an animal to health under this chapter shall not be civilly
28 or criminally liable for such action.

29 (12) The provisions of this section are in addition to, and not
30 in lieu of, the provisions of RCW 16.52.200.

31 (13) A petition for a civil hearing for the immediate return of a
32 seized animal shall be in a form substantially similar to the
33 following:

34
35 "IN THE COURT
36 OF THE STATE OF WASHINGTON IN AND FOR
37 THE COUNTY OF
38, No.....
39 Petitioner.

1 vs. PETITION FOR

2 RETURN OF SEIZED

3 Respondent ANIMALS

4 PARTIES/JURISDICTION

5 (a) (i) That Petitioner is, and at all relevant times herein was,
6 a resident of (county of residence) County, Washington.

7 (ii) That Respondent is, and at all relevant times herein was, an
8 agent, contractor, or political subdivision of the City/County
9 of (city or county of seizing agency), State of Washington.

10 (iii) That Petitioner's animal/animals were seized by Respondent
11 in (county where animals were seized) County, Washington.

12 (iv) That this Court has jurisdiction over the subject matter and
13 the parties hereto.

14 FACTS

15 (b) (i) That upon seizure of (number and type of animals)
16 such animals were placed in the care and custody of the Respondent
17 on (date of seizure).

18 (ii) That on or about (date on notice) the Respondent
19 issued a seizure, bond, and forfeiture notice under RCW 16.52.085, a
20 true and correct copy of said notice and accompanying attachments is
21 attached hereto and incorporated herein as Exhibit A (attach a copy
22 of the notice of seizure to this petition).

23 (iii) That pursuant to such notice, Petitioner herein files this
24 petition for the immediate return of all such seized animals pursuant
25 to RCW 16.52.085.

26 PRAYER

27 (c) Petitioner prays that this Court grant said petition and
28 order the immediate return of Petitioner's aforementioned animals to
29 Petitioner's care and custody.

30
31 DATED the . . . day of,

32
33 By:

34 Petitioner (Signature)

--- END ---