

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1234

68th Legislature
2023 Regular Session

Passed by the House February 8, 2023
Yeas 96 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate April 12, 2023
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1234** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1234

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Goodman, Eslick, Peterson, Leavitt, Fitzgibbon, Bateman, Walen, Stearns, and Pollet)

READ FIRST TIME 01/30/23.

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 (4) The laws and rules of Washington that are applicable to civil
5 asset forfeiture do not apply to the seizure and forfeiture of
6 animals under this section.

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

9 (1) For the purposes of this section:

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

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

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

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

20 (iv) Veterinary or other care as may be deemed necessary by a
21 reasonably prudent person to prevent or relieve in a timely manner
22 distress from injury, neglect, or physical infirmity; and

23 (v) Continuous access to an area:

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

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

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

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

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

1 (c) "Physical injury" includes, but is not limited to,
2 substantial physical pain, fractures, cuts, burns, punctures,
3 bruises, or other wounds or illnesses produced by violence or by a
4 thermal or chemical agent.

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

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

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

35 (i) Render emergency aid to the animal; or
36 (ii) Seize the animal without a warrant. Any animal seized
37 without a warrant shall immediately be brought to a veterinarian
38 licensed in the state of Washington to provide medical attention and
39 to assess the health of the animal.

1 (c) A law enforcement officer or an animal control officer is not
2 liable for any damages for entry onto private property without a
3 warrant under this section, provided that the officer does not use
4 any more force than is reasonably necessary to enter upon the
5 property and remove the animal.

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

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

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

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

1 (b) A description of the seized animal;

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

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

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

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

39 ~~(5) If no criminal case is filed within fourteen business days of~~
40 ~~the animal's removal, the owner may petition the district court of~~

1 ~~the county where the animal was removed for the animal's return. The~~
2 ~~petition shall be filed with the court. Copies of the petition must~~
3 ~~be served on the law enforcement or animal care and control agency~~
4 ~~responsible for removing the animal and to the prosecuting attorney.~~
5 ~~If the court grants the petition, the agency which seized the animal~~
6 ~~must surrender the animal to the owner at no cost to the owner. If a~~
7 ~~criminal action is filed after the petition is filed but before the~~
8 ~~hearing on the petition, then the petition shall be joined with the~~
9 ~~criminal matter.~~

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

14 ~~(7))~~ (5) (a) When an animal is seized pursuant to this section,
15 the owner shall post a bond with the district court in an amount
16 sufficient to provide minimum care for each animal seized for 30
17 days, including the day on which the animal was taken into custody,
18 regardless of whether the animal is the subject of a criminal charge.
19 Such bond shall be filed with the clerk of the district court of the
20 county from which the animal was seized within 14 calendar days after
21 the day the animal is seized.

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

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

34 (iii) An owner's failure to file a written petition by 5:00 p.m.
35 on the 14th calendar day after the day the animal was seized shall
36 constitute a waiver of the right to file a petition under this
37 subsection and the animal is deemed abandoned and the owner's
38 interest in the animal is forfeited to the custodial agency by
39 operation of law unless a bond has been posted pursuant to this
40 subsection (5). The court may extend the 14-day period to file a

1 written petition by an additional 14 calendar days if the petitioner
2 did not have actual notice of the seizure and the court finds, on the
3 record and in writing, that there are exceptional and compelling
4 circumstances justifying the extension.

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

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

23 (A) Reasonable attorney fees for the owner; and

24 (B) A full refund of the bond posted pursuant to this subsection
25 (5) by the owner for the care of the animal.

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

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

1 (e) For the purposes of this subsection (5), "animal" includes
2 all unborn offspring of the seized animal and all offspring of the
3 seized animal born after the animal was seized.

4 (6) When an animal is seized from a person prohibited from
5 owning, caring for, possessing, or residing with animals under RCW
6 16.52.200 or an order issued pursuant to RCW 16.52.205 or 16.52.207,
7 the animal is immediately and permanently forfeited by operation of
8 law to the custodial agency and no court action is necessary.

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

18 (8) A custodial agency may authorize a veterinarian or veterinary
19 technician licensed in the state of Washington or a certified
20 euthanasia technician certified in the state of Washington to
21 euthanize a seized animal for humane reasons at any time if the
22 animal is severely injured, sick, diseased, or suffering.

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

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

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

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

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

1
2 "IN THE COURT
3 OF THE STATE OF WASHINGTON IN AND FOR
4 THE COUNTY OF

5, No.
6 Petitioner,
7 vs. PETITION FOR
8 RETURN OF SEIZED
9 Respondent ANIMALS

10 PARTIES/JURISDICTION

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

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

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

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

20 FACTS

21 (b) (i) That upon seizure of (number and type of animals)
22 such animals were placed in the care and custody of the Respondent
23 on (date of seizure).

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

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

32 PRAYER

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

36
37 DATED the . . . day of,
38

1 By:

2 Petitioner (Signature)

--- END ---