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**HOUSE BILL 1234**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Goodman and Eslick

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)

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