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# A BILL FOR AN ACT

RELATING TO CRUELTY TO ANIMALS.

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

1 SECTION 1. Chapter 711, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4 **"§711-A Authority to enter premises; notice of impoundment**  
5 **of animal; damage resulting from entry.** (1) If there is  
6 probable cause to believe that a pet animal is being subjected  
7 to treatment in violation of section 711-1109 or 711-1109.3, a  
8 law enforcement officer, after obtaining a search warrant or in  
9 any other manner authorized by law, may enter the premises where  
10 the pet animal is located to provide the pet animal with food,  
11 water, and emergency medical treatment or to impound the pet  
12 animal. If after reasonable effort, the owner or person having  
13 custody of the pet animal cannot be found and notified of the  
14 impoundment, an impoundment notice shall be conspicuously posted  
15 on the premises and within seventy-two hours after posting, the  
16 notice shall be sent by certified mail to the address, if any,  
17 from which the pet animal was removed.



1       (2) A law enforcement officer is not liable for any damage  
2 resulting from an entry under subsection (1), unless the damage  
3 resulted from intentional or reckless behavior on behalf of the  
4 law enforcement officer.

5       (3) A court may order a pet animal impounded under  
6 subsection (1) to be held at a duly incorporated humane society  
7 or duly incorporated society for the prevention of cruelty to  
8 animals. A facility receiving the pet animal shall provide  
9 adequate food and water and may provide veterinary care.

10       (4) For purposes of this section, "law enforcement  
11 officer" shall have the same meaning as section 710-1000.

12       **§711-B Forfeiture of animal prior to disposition of**  
13 **criminal charges.** (1) If any pet animal is impounded pursuant  
14 to section 711-A, prior to final disposition of the criminal  
15 charge under section 711-1109 or 711-1109.3 against the pet  
16 animal's owner, any duly incorporated humane society or duly  
17 incorporated society for the prevention of cruelty to animals  
18 that is holding the pet animal may file a petition in the  
19 criminal action requesting that the court issue an order for  
20 forfeiture of the pet animal to the county or to the duly  
21 incorporated humane society or duly incorporated society for the  
22 prevention of cruelty to animals prior to final disposition of



1 the criminal charge. The petitioner shall serve a true copy of  
2 the petition upon the defendant and the prosecuting attorney.

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

7 (3) At a hearing conducted pursuant to subsection (2), the  
8 petitioner shall have the burden of establishing probable cause  
9 that the pet animal was subjected to a violation of section  
10 711-1109 or 711-1109.3. If the court finds that probable cause  
11 exists, the court shall order immediate forfeiture of the pet  
12 animal to the petitioner, unless the defendant, within seventy-  
13 two hours of the hearing:

14 (a) Posts a security deposit or bond with the court clerk  
15 in an amount determined by the court to be sufficient  
16 to repay all reasonable costs incurred, and  
17 anticipated to be incurred, by the petitioner in  
18 caring for the pet animal from the date of initial  
19 impoundment to the date of trial; or

20 (b) Demonstrates to the court that proper alternative care  
21 has been arranged for the pet animal.



1 Notwithstanding subsection (3)(a), a court may waive, for good  
2 cause shown, the requirement that the defendant post a security  
3 deposit or bond.

4 (4) If a security deposit or bond has been posted in  
5 accordance with subsection (3)(a), the petitioner may draw from  
6 the security deposit or bond the actual reasonable costs  
7 incurred by the petitioner in caring for the pet animal until  
8 the date of final disposition of the criminal action. If the  
9 trial is continued to a later date, any order of continuance  
10 shall require the defendant to post an additional security  
11 deposit or bond in an amount determined by the court that shall  
12 be sufficient to repay all additional reasonable costs  
13 anticipated to be incurred by the petitioner in caring for the  
14 pet animal until the date of final disposition of the criminal  
15 action, and the petitioner may draw from the additional security  
16 deposit or bond as necessary.

17 (5) No pet animal may be destroyed by a petitioner under  
18 this section prior to final disposition of the criminal charge  
19 under section 711-1109 or 711-1109.3 against the pet animal's  
20 owner, except in the event that the pet animal is so severely  
21 injured that there is no reasonable probability that its life  
22 may be saved.



1        (6) Forfeiture of a pet animal under this section shall  
2 not be subject to the provisions of chapter 712A."

3        SECTION 2. 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 3. In codifying the new sections added by section  
7 1 of this Act, the revisor of statutes shall substitute  
8 appropriate section numbers for the letters used in designating  
9 the new sections in this Act.

10       SECTION 4. New statutory material is underscored.

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



SB 2924 SD1

HD1

**Report Title:**

Forfeiture of Pet Animals; Impoundment

**Description:**

Gives law enforcement officers authority to enter premises and impound a pet animal when there is probable cause to believe the pet animal is being subjected to cruel treatment. Allows a court to order the forfeiture of an impounded pet animal prior to and during a criminal action against its owner. (SB2924 HD1)

SB2924 HD1 HMS 2006-2876

