

JAN 25 2006

S.B. NO. 2924

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 Forfeiture of animal prior to disposition of
5 criminal charges. (1) If any animal is impounded pursuant to
6 section 711-B, prior to final disposition of the criminal charge
7 under sections 711-1109 or 711-1109.3 against the animal's
8 owner, any duly incorporated humane society or society for the
9 prevention of cruelty to animals who is holding the animal may
10 file a petition in the criminal action requesting that the court
11 issue an order for forfeiture of the animal to the county or
12 duly incorporated humane society or society for the prevention
13 of cruelty to animals prior to final disposition of the criminal
14 charge. The petitioner shall serve a true copy of the petition
15 upon the defendant and the prosecuting attorney.

16 (2) Upon receipt of a petition pursuant to subsection (1),
17 the court shall set a hearing on the petition. The hearing



1 shall be conducted within fourteen days after the filing of the
2 petition, or as soon as practicable.

3 (3) At a hearing conducted pursuant to subsection (2), the
4 petitioner shall have the burden of establishing probable cause
5 that the animal was subjected to a violation of sections
6 711-1109 or 711-1109.3. If the court finds that probable cause
7 exists, the court shall order immediate forfeiture of the animal
8 to the petitioner, unless the defendant, within seventy-two
9 hours of the hearing, posts a security deposit or bond with the
10 court clerk in an amount determined by the court to be
11 sufficient to repay all reasonable costs incurred, and
12 anticipated to be incurred, by the petitioner in caring for the
13 animal from the date of initial impoundment to the date of
14 trial. Notwithstanding subsection (3), a court may waive, for
15 good cause shown, the requirement that the defendant post a
16 security deposit bond.

17 (4) If a security deposit or bond has been posted in
18 accordance with subsection (3), and the trial is continued to a
19 later date, any order of continuance shall require the defendant
20 to post an additional security deposit or bond in an amount
21 determined by the court that shall be sufficient to repay all



1 additional reasonable costs anticipated to be incurred by the
2 petitioner in caring for the animal until the new trial date.

3 (5) If a security deposit or bond has been posted in
4 accordance with subsection (4), the petitioner may draw from
5 that security deposit or bond the actual reasonable costs
6 incurred by the petitioner in caring for the animal until the
7 date of final disposition of the criminal action.

8 **§711-B Authority to enter premises; notice of impoundment**
9 **of animal; damage resulting from entry.** (1) If there is

10 probable cause to believe that an animal is being subjected to
11 treatment in violation of section 711-1109 or 711-1109.3, a law
12 enforcement officer, after obtaining a search warrant or in any
13 other manner authorized by law, may enter the premises where the
14 animal is located to provide the animal with food, water, and
15 emergency medical treatment or to impound the animal. If after
16 reasonable effort, the owner or person having custody of the
17 animal cannot be found and notified of the impoundment, the
18 notice shall be conspicuously posted on the premises and within
19 seventy-two hours after posting, the impoundment notice shall be
20 sent by certified mail to the address, if any, from which the
21 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 an animal impounded under subsection
6 (1) to be held at a duly incorporated humane society of society
7 for the prevention of cruelty to animals. A facility receiving
8 the animal shall provide adequate food and water and may provide
9 veterinary care.

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

13 SECTION 2. In codifying the new sections added by section
14 1 of this Act, the revisor of statutes shall substitute
15 appropriate section numbers for the letters used in designating
16 the new sections in this Act.

17 SECTION 3. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval.

19
20 INTRODUCED BY:

J. Kaigoh

[Signature]
Suzanne Chun Oakland
Chunna K. Issikihana



Russell Kohl

Report Title:

Forfeiture of Animals; Impoundment

SB 2924

Description:

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

