



GOV. MSG. NO. 1125

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

April 17, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on April 17, 2012, the following bill was signed into law:

SB2503 SD1 HD1

RELATING TO ANIMAL CURELTY.
Act 025 (12)

Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on APR 17 2012

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

2012 025

S.B. NO. 2503
S.D. 1
H.D. 1

A BILL FOR AN ACT

RELATING TO ANIMAL CRUELTY.

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

1 SECTION 1. Section 711-1109.1, Hawaii Revised Statutes, is
2 amended as follows:
3 1. By amending subsection (1) to read:
4 "(1) If there is probable cause to believe that a pet
5 animal or equine animal is being subjected to treatment in
6 violation of section 711-1108.5, 711-1109, 711-1109.3, 711-
7 1109.6, or 711-1109.35, as applicable, a law enforcement
8 officer, after obtaining a search warrant, or in any other
9 manner authorized by law, may enter the premises where the pet
10 animal or equine animal is located to provide the pet animal or
11 equine animal with food, water, and emergency medical treatment
12 or to impound the pet animal[-] or equine animal. If after
13 reasonable effort, the owner or person having custody of the pet
14 animal or equine animal cannot be found and notified of the
15 impoundment, an impoundment notice shall be conspicuously posted
16 on the premises and within seventy-two hours after posting, the
17 notice shall be sent by certified mail to the address, if any,
18 from which the pet animal or equine animal was removed."

SB2503 HD1 HMS 2012-2848-1



1 2. By amending subsection (3) to read:

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

8 SECTION 2. Section 711-1109.2, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§711-1109.2 Forfeiture of animal prior to disposition of**
11 **criminal charges.** (1) If any pet animal or equine animal is
12 impounded pursuant to section 711-1109.1, prior to final
13 disposition of [~~the~~] a criminal charge under section 711-1108.5,
14 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, as applicable,
15 against the pet animal's or equine animal's owner, any duly
16 incorporated humane society or duly incorporated society for the
17 prevention of cruelty to animals that is holding the pet animal
18 or equine animal may file a petition in the criminal action
19 requesting that the court issue an order for forfeiture of the
20 pet animal or equine 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 or equine animal was subjected to a
10 violation of section 711-1108.5, 711-1109, 711-1109.3, 711-
11 1109.6, or 711-1109.35[-], as applicable. If the court finds
12 that probable cause exists, the court shall order immediate
13 forfeiture of the pet animal or equine animal to the petitioner,
14 unless the defendant, within seventy-two hours of the hearing:

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



1 (b) Demonstrates to the court that proper alternative care
2 has been arranged for the pet animal[-] or equine
3 animal.

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

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

20 (5) No pet animal or equine animal may be destroyed by a
21 petitioner under this section prior to final disposition of
22 [~~the~~] a criminal charge under section 711-1108.5, 711-1109, 711-



1 1109.3, 711-1109.6, or 711-1109.35, as applicable, against the
2 pet animal's or equine animal's owner, except in the event that
3 the pet animal or equine animal is so severely injured that
4 there is no reasonable probability that its life can be saved.

5 (6) Forfeiture of a pet animal or equine animal under this
6 section shall not be subject to the provisions of chapter 712A.

7 (7) In addition to any reasonable costs incurred under
8 subsection (4) by the petitioner in the caring for the pet
9 animal or equine animal, the court may award reasonable
10 attorney's fees and court costs to the petitioner following the
11 conviction of the defendant.

12 (8) As used in this section, "pet animal or equine animal"
13 includes any offspring from the pet animal or equine animal that
14 was pregnant at the time of the rescue and born during the
15 impoundment of the pet animal or equine animal."

16 SECTION 3. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

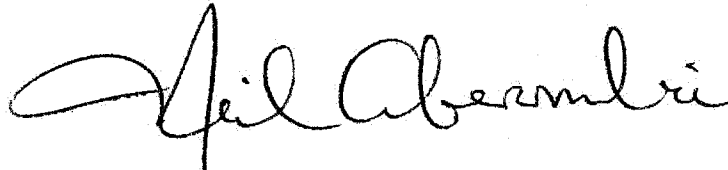
19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 5. This Act shall take effect on July 1, 2012;
22 provided that the amendments made to sections 711-1109.1 and



1 711-1109.2, Hawaii Revised Statutes, by sections 1 and 2 of this
2 Act, shall not be repealed when section 711-1109.1(1) and
3 sections 711-1109.2(1), (3), and (5), Hawaii Revised Statutes,
4 are reenacted on July 1, 2015, pursuant to Act 149, Session Laws
5 of Hawaii 2011.

APPROVED this 17 day of APR, 2012


GOVERNOR OF THE STATE OF HAWAII