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## A BILL FOR AN ACT

RELATING TO ANIMAL CRUELTY.

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

1           SECTION 1. Section 711-1109.2, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "**§711-1109.2 Forfeiture of animal prior to disposition of**  
4 **criminal charges.** (1) If any pet animal or equine is impounded  
5 pursuant to section 711-1109.1, prior to final disposition of  
6 the criminal charge under section 711-1108.5, 711-1109, 711-  
7 1109.3, 711-1109.6, or 711-1109.35, against the pet animal's or  
8 equine's owner, any duly incorporated humane society or duly  
9 incorporated society for the prevention of cruelty to animals  
10 that is holding the pet animal or equine may file a petition in  
11 the criminal action requesting that the court issue an order for  
12 forfeiture of the pet animal or equine to the county or to the  
13 duly incorporated humane society or duly incorporated society  
14 for the prevention of cruelty to animals prior to final  
15 disposition of the criminal charge. The petitioner shall serve  
16 a true copy of the petition upon the defendant and the  
17 prosecuting attorney.



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

5           (3) At a hearing conducted pursuant to subsection (2), the  
6 petitioner shall have the burden of establishing probable cause  
7 that the pet animal or equine was subjected to a violation of  
8 section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-  
9 1109.35. If the court finds that probable cause exists, the  
10 court shall order immediate forfeiture of the pet animal or  
11 equine to the petitioner, unless the defendant, within seventy-  
12 two hours of the hearing:

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

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



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

17 (5) No pet animal or equine may be destroyed by a  
18 petitioner under this section prior to final disposition of the  
19 criminal charge under section 711-1108.5, 711-1109, 711-1109.3,  
20 711-1109.6, or 711-1109.35, against the pet animal's or equine's  
21 owner, except in the event that the pet animal or equine is so



1 severely injured that there is no reasonable probability that  
2 its life can be saved.

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

5 (7) In addition to any reasonable costs incurred under  
6 subsection (4) by the petitioner in the caring for the pet  
7 animal or equine, the petitioner shall be entitled to an award  
8 of attorney's fees and court costs incurred by the petitioner in  
9 the filing of the petition for the forfeiture of the pet animal  
10 or equine.

11 (8) As used in this section, "pet animal or equine"  
12 includes any offspring born during the impoundment of the pet  
13 animal or equine."

14 SECTION 2. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 3. This Act shall take effect upon its approval;  
17 provided that the amendments made to section 711-1109.2, Hawaii  
18 Revised Statutes, by section 1 of this Act shall not be repealed  
19 when section 711-1109.2(1), (3), and (5), Hawaii Revised

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# H.B. NO. 2679

1 Statutes, is reenacted on July 1, 2015, pursuant to Act 149,  
2 Session Laws of Hawaii 2011.

3

INTRODUCED BY:

*Sen. Am*

*[Signature]*  
*Sen. DC. Kauhala*

JAN 24 2012



**Report Title:**

Cruelty to Animals; Equines

**Description:**

Extends procedures for impoundment and forfeiture for cruelty to animal offense to equines to the same extent as pet animals.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

