
A BILL FOR AN ACT

RELATING TO ANIMAL FORFEITURE.

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

1 SECTION 1. The legislature finds that the final
2 disposition of rescued animals can be delayed while preparing
3 for a criminal case, especially when large numbers of animals
4 are involved. The delay imposes extraordinary costs and strains
5 upon the humane society that is tasked with the care of the
6 animals; postpones the full recovery of the animals that are
7 being held unnecessarily; and prevents the adoption of the
8 animals.

9 The purpose of this Act is to clarify that if the court
10 finds probable cause and grants the petition of the incorporated
11 humane society or duly incorporated society for the prevention
12 of cruelty to animals for forfeiture of the animal prior to the
13 filing or disposition of criminal charges, the animal shall be
14 forfeited to the care of the humane society or duly incorporated
15 society for the prevention of cruelty to animals. On the other
16 hand, if there is no probable cause, then the animal shall be
17 returned to the owner.



1 SECTION 2. 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 animal is
5 impounded pursuant to section 711-1109.1, prior to filing of, or
6 final disposition of a criminal charge under section 711-1108.5,
7 711-1109, 711-1109.3, or 711-1109.35, as applicable, against the
8 pet animal's or equine animal's owner, any duly incorporated
9 humane society or duly incorporated society for the prevention
10 of cruelty to animals that is holding the pet animal or equine
11 animal may file a petition, in [~~the criminal action~~] the court
12 that would have jurisdiction over the criminal case when
13 criminal charges are filed, requesting that the court issue an
14 order for forfeiture of the pet animal or equine animal to the
15 county or to the duly incorporated humane society or duly
16 incorporated society for the prevention of cruelty to animals
17 prior to filing of, or final disposition of [~~the~~] any criminal
18 charge[-] that may arise from the circumstances supporting the
19 impoundment. The petitioner shall serve a true copy of the
20 petition upon the [~~defendant~~] owner or custodian of the
21 impounded animal and the 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 animal was subjected to a
8 violation of section 711-1108.5, 711-1109, 711-1109.3, or 711-
9 1109.35, as applicable. If the court finds that probable cause
10 exists, the court shall order immediate forfeiture of the pet
11 animal or equine animal to the petitioner[, unless the
12 defendant, within seventy 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 ~~earing for the pet animal or equine animal from the~~
18 ~~date of 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 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 or~~
8 ~~equine animal until the date of final disposition of the~~
9 ~~criminal action. If the trial is continued to a later date, any~~
10 ~~order of continuance shall require the defendant to post an~~
11 ~~additional security deposit or bond in an amount determined by~~
12 ~~the court that shall be sufficient to repay all additional~~
13 ~~reasonable costs anticipated to be incurred by the petitioner in~~
14 ~~caring for the pet animal or equine animal until the date of~~
15 ~~final disposition of the criminal action, and the petitioner may~~
16 ~~draw from the additional security deposit or bond as necessary.~~

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



1 ~~or equine animal is so severely injured that there is no~~
2 ~~reasonable probability that its life can be saved].~~

3 (4) If the court finds that the petitioner did not
4 establish probable cause that the pet animal or equine animal
5 was subject to a violation of section 711-1108.5, 711-1109, 711-
6 1109.3, or 711-1109.35, as applicable, then the court shall
7 order the return of the pet animal or equine animal to the owner
8 or custodian of the impounded animals, and may order repayment
9 of all reasonable costs incurred by the petitioner in caring for
10 the pet animal or equine animal from the date of initial
11 impoundment to the date of return.

12 (5) Upon forfeiture of any pet animal or equine animal
13 under this section, the duly incorporated humane society or duly
14 incorporated society for the prevention of cruelty to animals
15 that has custody of the animal shall determine final disposition
16 of the animal in accordance with its normal practices for the
17 humane treatment of animals.

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

20 (7) In addition to any reasonable costs incurred under
21 subsection (4) by the petitioner in the caring for the pet



1 animal or equine animal, the court may award reasonable
2 attorney's fees and court costs to the petitioner following the
3 conviction of the defendant.

4 (8) As used in this section, "pet animal or equine animal"
5 includes any offspring from the pet animal or equine animal that
6 was pregnant at the time of the rescue and born during the
7 impoundment of the pet animal or equine animal."

8 SECTION 3. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect upon its approval.
14

INTRODUCED BY:

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JAN 25 2017



H.B. NO. 1516

Report Title:

Animal Forfeiture; Humane Societies

Description:

Permits incorporated societies for the protection of animals to petition for full custody of the subject animals prior to filing or final disposition of criminal charges against the owner of the animals.

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

