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# 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. This delay can impose extraordinary costs and  
5 strains upon the incorporated humane society or incorporated  
6 society that is tasked with the care of the animals; postpone  
7 the full recovery of the animals that are being held  
8 unnecessarily; and prevent the adoption of the rescued animals.

9           The purpose of this Act is to clarify that an incorporated  
10 humane society or incorporated society for the prevention of  
11 cruelty to animals may petition the court for the forfeiture of  
12 an impounded animal prior to the filing or disposition of  
13 criminal charges against the owner of the animal that arise from  
14 circumstances supporting the impoundment.

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



1           "§711-1109.2 Forfeiture of animal prior to filing of or  
2 final disposition of criminal charges. (1) If any pet animal  
3 or equine animal is impounded pursuant to section 711-1109.1,  
4 prior to filing of, or final disposition of a criminal charge  
5 under section 711-1108.5, 711-1109, 711-1109.3, or 711-1109.35,  
6 as applicable, against the pet animal's or equine animal's  
7 owner, any duly incorporated humane society or duly incorporated  
8 society for the prevention of cruelty to animals that is holding  
9 the pet animal or equine animal may file a petition in the court  
10 that will have jurisdiction over the criminal case when the  
11 criminal charge is filed, if the petition is filed prior to the  
12 filing of the criminal charge, or in the criminal action  
13 requesting that the court issue an order for forfeiture of the  
14 pet animal or equine animal to the county or to the duly  
15 incorporated humane society or duly incorporated society for the  
16 prevention of cruelty to animals prior to the filing of the  
17 criminal charge that arises from the impoundment or final  
18 disposition of the criminal charge. The petitioner shall serve  
19 a true copy of the petition upon the owner or custodian of the  
20 impounded pet animal or equine animal, when a petition is filed



1 prior to the filing of the criminal charge, or the defendant, in  
2 the criminal action, 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, or  
11 711-1109.35, as applicable. If the court finds that probable  
12 cause exists, the court shall order immediate forfeiture of the  
13 pet animal or equine animal to the petitioner, unless the owner  
14 or custodian of the impounded pet animal or equine animal, when  
15 a petition is filed prior to the filing of the criminal charge,  
16 or the defendant, in the criminal action, within seventy-two  
17 hours of the hearing:

18 (a) Posts a security deposit or bond with the court clerk  
19 in an amount determined by the court to be sufficient  
20 to repay all reasonable costs incurred, and  
21 anticipated to be incurred, by the petitioner in



1           caring for the pet animal or equine animal from the  
2           date of initial impoundment to the date of trial; or  
3       (b) Demonstrates to the court that proper alternative care  
4           has been arranged for the pet animal or equine animal.  
5   Notwithstanding subsection (3)(a), a court may waive, for good  
6   cause shown, the requirement that the owner or custodian of the  
7   impounded pet animal or equine animal, when a petition is filed  
8   prior to the filing of the criminal charge, or the defendant, in  
9   the criminal action, post a security deposit or bond.

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



1 to be incurred by the petitioner in caring for the pet animal or  
2 equine animal until the date of final disposition of the  
3 criminal action, and the petitioner may draw from the additional  
4 security deposit or bond as necessary.

5 (5) No pet animal or equine animal may be destroyed by a  
6 petitioner under this section prior to final disposition of a  
7 criminal charge under section 711-1108.5, 711-1109, 711-1109.3,  
8 or 711-1109.35, as applicable, against the pet animal's or  
9 equine animal's owner, except in the event that the pet animal  
10 or equine animal is a danger to itself or others, or so severely  
11 injured that there is no reasonable probability that its life  
12 can be saved.

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

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

20 (8) As used in this section, "pet animal or equine animal"  
21 includes any offspring from the pet animal or equine animal that



1 was pregnant at the time of the rescue and born during the  
2 impoundment of the pet animal or equine animal.

3 (9) An acquittal or dismissal in a criminal proceeding  
4 shall not preclude civil proceedings under this chapter."

5 SECTION 3. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun before its effective date.

8 SECTION 4. New statutory material is underscored.

9 SECTION 5. This Act shall take effect on July 1, 2050.

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**Report Title:**

Forfeiture; Pet Animals; Equine Animals; Duly Incorporated Humane Societies and Duly Incorporated Societies for the Prevention of Cruelty to Animals; Petition

**Description:**

Permits duly incorporated humane societies and duly incorporated societies for the prevention of cruelty to animals to petition for full custody of an impounded pet animal or equine animal prior to the filing of certain criminal charges against the owner or custodian of the pet animal or equine animal. Allows a pet animal or equine animal to be destroyed by the petitioner prior to final disposition of certain criminal charges if the pet animal or equine animal is a danger to itself or others. Clarifies that an acquittal or dismissal in a criminal proceeding does not preclude civil proceedings under animal cruelty offenses. Takes effect on 7/1/2050. (SD1)

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

