

---

## Judiciary Committee

---

### HB 2644

**Title:** An act relating to animal forfeiture in animal cruelty cases.

**Brief Description:** Concerning animal forfeiture in animal cruelty cases.

**Sponsors:** Representatives Blake, Muri, Van De Wege, Jenkins, Kretz, Short, Fitzgibbon, Rossetti and McBride.

#### Brief Summary of Bill

- Changes the timelines in the animal cruelty provisions regarding removal of an animal, and petition for return of a removed animal, to refer to "calendar" days, rather than "business" days, and makes other changes to the petition for return process.
- Requires a removed animal belonging to a person who has successfully petitioned for its return to be made available to the owner, rather than delivered.
- Repeals a statutory lien provision that allows a person to recover the cost of caring for an animal removed from the custody of its owner by law enforcement, and to retain the animal for collateral during the pendency of the lien.

**Hearing Date:** 2/3/16

**Staff:** Omeara Harrington (786-7136).

#### **Background:**

##### Removal of Animals during an Animal Cruelty Investigation.

Law enforcement agencies and local animal care and control agencies may enforce the animal cruelty laws. A law enforcement officer or animal control officer may, with a warrant, remove an animal to a suitable place for care if the officer has probable cause to believe the owner has violated the animal cruelty laws and there is no responsible person available who can assume the animal's care. The officer may remove an animal without a warrant if the animal is in an immediate life-threatening situation.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

An owner of a seized domestic animal must be notified, in writing, of the circumstances of removal and legal remedies. After 15 business days, the agency having custody of the animal may euthanize the animal or find a responsible person to adopt the animal. If no criminal case is filed within 14 business days, the owner may petition the court for the animal's return. An owner may prevent the animal's destruction or adoption by filing a petition for return of the animal or posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days.

If the owner files a petition for return of the animal, a copy of the petition must be served on the agency that removed the animal and the prosecuting attorney. If the court grants the petition, the animal must be delivered to the owner at no cost. If a criminal action is filed after a petition for return is filed, but before the animal is returned, the petition is joined with the criminal action.

#### Forfeiture of Animals upon Conviction.

When a person is convicted of a criminal violation of the animal cruelty laws, the court must order forfeiture of all animals held by law enforcement or animal control authorities if any one of the animals involved dies as a result of the violation or if the defendant has a prior conviction under the animal cruelty laws. In other cases, the court may order forfeiture of the animal if the animal's treatment was severe and is likely to reoccur. A person convicted of animal cruelty is prohibited from owning, residing with, or caring for any similar animals for a specified period of time, unless the person's right is sooner restored.

#### Liability for Cost of Care of a Removed Animal.

When a law enforcement officer authorizes the removal of an animal in an animal cruelty investigation, the person or entity receiving the animal and aiding in its care holds a lien on the animal for the cost of feeding, pasturing, and caring for the animal. The person is authorized to retain possession of the animal until the costs are paid or the lien expires.

Additional statutory provisions in the animal cruelty laws provide for reimbursement for care of an animal by someone other than its owner under specified circumstances. Upon conviction for an animal cruelty offense, or upon agreement, a defendant is liable for reasonable costs incurred for the care of the removed animals, including the costs of the investigation, and the animal's care, euthanasia, or adoption. Animals taken from a person who is arrested for unsafe transport or confinement of a domestic animal become security for a lien for the cost of their care. A person who enters a place in which a domestic animal is confined without necessary food or water in order to provide for the animal may recover the cost of the food and water from the owner.

#### **Summary of Bill:**

A number of changes are made to the process under which an animal may be removed for care by a law enforcement or animal control agency and an owner may petition for return of the removed animal:

- The statutory timelines regarding the waiting period before a removed animal may be adopted or euthanized, and for an owner to petition for return of a removed animal, are changed to "calendar" days from "business" days.

- A petition for return of a removed animal must be served on the law enforcement or animal control agency responsible for removal and the prosecutor on the same day as the petition is filed with the court.
- Upon an owner's successful petition for return of a removed animal, the animal must be surrendered to the owner, rather than delivered to the owner.
- A petition for return of a removed animal must be joined with a criminal action against the owner if the action is filed before the hearing on the petition, rather than before the time the animal is returned.

The authority of a law enforcement officer, animal control officer, custodial agency, or court to remove, adopt, euthanize, or require forfeiture of an animal is not limited by the forfeiture provisions and limitations on animal ownership in the criminal sentencing provisions of the animal cruelty laws.

The provision is repealed that establishes a lien allowing a person to recover the cost of caring for an animal removed from the custody of its owner by law enforcement, and to retain the animal for collateral during the pendency of the lien.

**Appropriation:** None.

**Fiscal Note:** Requested on 1/29/16.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.