

SENATE BILL REPORT

SHB 2644

As Reported by Senate Committee On:
Law & Justice, February 26, 2016

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

Brief Description: Concerning animal forfeiture in animal cruelty cases.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Blake, Muri, Van De Wege, Jinkins, Kretz, Short, Fitzgibbon, Rossetti and McBride).

Brief History: Passed House: 2/15/16, 97-0.

Committee Activity: Law & Justice: 2/24/16, 2/26/16 [DP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Frockt, Pearson and Roach.

Staff: Tim Ford (786-7423)

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.

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.

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.

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: The animal forfeiture process is changed in the following ways:

- Upon a successful petition for return of an animal that has been removed from its owner's care, 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 criminal action is filed before the hearing on the petition.
- The legal authority of a law enforcement officer or animal control officer to remove, adopt, euthanize, or require forfeiture of an animal is not limited by the criminal sentencing provisions related to animal cruelty.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The bill provides clarity in time frames for owners and all parties. The bill will allow quicker hearings for owners and reduce the time of the animal in the shelter. It will also reduce the costs for local government.

CON: Innocent pet owners will be harmed by this bill. The bill creates a process that is too strict because of the service requirements. If the owner does not meet this strict service requirement, local government could kill the owner's pets.

Persons Testifying: PRO: Rep. Blake, Prime Sponsor; Dan Paul, Humane Society; Cort O'Connor, Pierce County; Brian Boman, Pierce County.

CON: Arthur West, citizen.

Persons Signed in to Testify But Not Testifying: No one.