

CHAPTER 41

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 01-1069

BY REPRESENTATIVE(S) Lawrence, Borodkin, Coleman, Grossman, Johnson, Mace, Madden, Plant, Romanoff, Scott, Sinclair, Stengel, Veiga, and Weddig;
also SENATOR(S) Gordon, Hanna, and Hernandez.

AN ACT

CONCERNING CRUELTY TO ANIMALS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 18-9-202.5, Colorado Revised Statutes, is amended to read:

18-9-202.5. Financial bonding requirements for costs of holding impounded animals. The owner or custodian of an animal that has been impounded because of alleged neglect or abuse, or because of investigation of charges of cruelty to animals OR ANIMAL FIGHTING as described in ~~section~~ SECTIONS 18-9-202 AND 18-9-204, RESPECTIVELY, may prevent disposition of the animal by an animal shelter, as defined in section 35-80-102 (1), C.R.S., that is caring for the animal by posting a bond with the court in an amount sufficient to provide for the animal's care and keeping for at least thirty days, including the day on which the animal was taken into custody. Such bond shall be filed with the court within ten days after the animal is impounded. At the end of the time for which expenses are covered by the bond, if the owner or custodian desires to prevent disposition of the animal by the animal shelter, the owner or custodian shall post a new bond with the court within ten days after the prior bond's expiration. However, the court shall order the immediate disposition of the animal by euthanasia if, in the opinion of a veterinarian, the animal is experiencing extreme pain or suffering. At the end of the time for which expenses are covered by the bond, the animal shelter may determine disposition of the animal unless there is a court order prohibiting such disposition. The owner or custodian shall be liable for the cost of the care, keeping, or disposal of the animal.

SECTION 2. Part 2 of article 9 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

18-9-208. Forfeiture of animals. (1) UPON THE MOTION OF THE PROSECUTING ATTORNEY OR UPON THE COURT'S OWN MOTION, AFTER THE CONVICTION OF A DEFENDANT FOR CRUELTY TO ANIMALS AS DESCRIBED IN SECTION 18-9-202, OR FOR ANIMAL FIGHTING AS DESCRIBED IN SECTION 18-9-204, THE COURT MAY ORDER THE FORFEITURE OF ANY ANIMAL OWNED BY OR IN THE CUSTODY OF THE DEFENDANT THAT:

(a) WAS ABUSED, NEGLECTED, MISTREATED, INJURED, OR USED BY THE DEFENDANT DURING THE COURSE OF THE CRIMINAL EPISODE THAT GAVE RISE TO SUCH CONVICTION;

(b) PARTICIPATED IN OR WAS AFFECTED BY ANY ACT SET FORTH IN SECTION 18-9-204 (1).

(2) (a) IF AN ANIMAL IS THE SUBJECT OF A MOTION MADE UNDER SUBSECTION (1) OF THIS SECTION AND IS NOT OWNED BY THE DEFENDANT, THE COURT MAY NEVERTHELESS ENTER AN ORDER OF FORFEITURE OF THE ANIMAL IF THE COURT FINDS THAT:

(I) THE ANIMAL WAS ABANDONED PRIOR TO THE CRIMINAL EPISODE DESCRIBED IN SUBSECTION (1) OF THIS SECTION;

(II) THE OWNER OF THE ANIMAL IS UNKNOWN; OR

(III) THE OWNER OF THE ANIMAL IS KNOWN BUT CANNOT BE LOCATED.

(b) ANY PERSON WHO CONTESTS A MOTION BROUGHT UNDER THIS SECTION SHALL ESTABLISH SUCH PERSON'S STANDING AS A TRUE OWNER OF THE ANIMAL. THE FACTORS TO BE CONSIDERED BY THE COURT IN DETERMINING WHETHER SUCH PERSON IS A TRUE OWNER SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING:

(I) WHETHER THE PERSON WAS THE PRIMARY USER, CUSTODIAN, OR POSSESSOR OF THE ANIMAL;

(II) WHETHER THERE IS EVIDENCE THAT OWNERSHIP OF THE ANIMAL IS VESTED IN THE PERSON;

(III) WHETHER CONSIDERATION WAS PAID FOR THE PURCHASE OF THE ANIMAL, AND, IF SO, HOW MUCH OF THE CONSIDERATION WAS FURNISHED BY THE PERSON.

(c) IF THE COURT DETERMINES THAT A PERSON OTHER THAN THE DEFENDANT IS THE TRUE OWNER OF THE ANIMAL, THE COURT MAY NOT ENTER AN ORDER FORFEITING THE ANIMAL UNDER THIS SECTION UNLESS THE COURT FINDS:

(I) THE TRUE OWNER WAS INVOLVED IN THE CRIMINAL EPISODE DESCRIBED IN SUBSECTION (1) OF THIS SECTION;

(II) THE TRUE OWNER KNEW OR REASONABLY SHOULD HAVE KNOWN OF THE CRIMINAL EPISODE DESCRIBED IN SUBSECTION (1) OF THIS SECTION AND FAILED TO TAKE ALL REASONABLE STEPS AVAILABLE TO HIM OR HER TO PREVENT IT; OR

(III) OWNERSHIP OF THE ANIMAL WAS CONVEYED TO THE TRUE OWNER IN ORDER TO AVOID A FORFEITURE.

(3) AN ORDER OF FORFEITURE ENTERED PURSUANT TO THIS SECTION SHALL PROVIDE FOR THE IMMEDIATE DISPOSITION OF THE FORFEITED ANIMAL BY ANY MEANS DESCRIBED IN SECTION 18-9-201 (2.5) OTHER THAN RETURN TO THE OWNER. THE COURT SHALL ORDER THE IMMEDIATE DISPOSITION OF THE FORFEITED ANIMAL BY EUTHANASIA IF, IN THE OPINION OF A VETERINARIAN, SUCH ANIMAL IS EXPERIENCING EXTREME PAIN OR SUFFERING.

(4) THE OWNER OR CUSTODIAN OF AN ANIMAL THAT IS THE SUBJECT OF A MOTION BROUGHT UNDER THIS SECTION SHALL BE LIABLE FOR THE COST OF THE CARE, KEEPING, TRANSPORT, OR DISPOSAL OF THE ANIMAL. IN NO EVENT SHALL THE PROSECUTING ATTORNEY OR THE OFFICE OF THE PROSECUTING ATTORNEY BE LIABLE FOR SUCH COST.

(5) THE COURT IN ITS DISCRETION MAY ORDER A FORFEITURE AUTHORIZED BY THIS SECTION AS AN ELEMENT OF SENTENCING, AS A CONDITION OF PROBATION, OR AS A CONDITION OF A DEFERRED SENTENCE.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 2001, and shall apply to offenses committed on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 20, 2001