EXHIBIT 12
DATE 3/28/11
HB490

Idaho Statutes

TITLE 25
ANIMALS

CHAPTER 35
CRUELTY TO ANIMALS

25-3520B.SEIZURE -- COSTS -- FORFEITURE PROCEEDINGS -- SECURITY DEPOSIT OR BOND -- DISPOSITION -- PROCEDURAL GUIDELINES. (1) Any person having authority to enforce this chapter, in accordance with section 25-3501 or 25-3501A, Idaho Code, who has probable cause to believe there has been a violation of section 25-3504, 25-3505, 25-3506, 25-3507, 25-3510 or 25-3511, Idaho Code, may take custody of the animal involved.

(2) If any animal is seized under this section, the owner or keeper shall be liable for the reasonable costs of the seizure and the care, keeping and disposal of the animal. Reasonable costs shall include, but shall not be limited to, transportation, medical, board, shelter and farrier costs.

(3) If any animal is in the possession of, and being held by, a law enforcement agency or animal care and control agency pursuant to the provisions of this chapter, pending the outcome of a criminal action charging a violation of this chapter, and prior to final disposition of the criminal charge, the animal care and control agency or law enforcement agency may file a petition in the criminal case requesting that the court issue an order forfeiting the animal to the law enforcement agency or animal care and control agency. The petitioner shall serve a true copy of the petition upon the defendant.

(4) Upon receipt of a petition pursuant to subsection (3) of this section, the court shall set a hearing on the petition. The hearing shall be conducted within fourteen (14) days after the filing of the petition, or as soon as practicable. The hearing shall be limited to the question of forfeiture of the animal.

(5) At a hearing conducted pursuant to subsection (4) of this section, the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of this chapter. A prior finding of probable cause to proceed on the criminal case will create a permissive inference that probable cause exists for the forfeiture proceeding. After the hearing, if the court finds probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant, within seventy-two (72) hours of the hearing, posts a security deposit or bond with the municipal or county treasurer in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, for the care of the animal for at least thirty (30) days inclusive of the day of the initial seizure and may order anticipated costs up to the time set for trial on the criminal case if requested by the petitioner. If, after the hearing, the court finds that no probable cause exists, the animal shall be returned to the owner or keeper of the animal, and the owner or keeper shall not be responsible for any costs of the seizure, care or treatment,

unless the person later pleads guilty to or is found guilty of a violation of this chapter.

(6) At the end of the time for which expenses are covered by the security deposit or bond, if the person owning or keeping the animal desires to prevent disposition of the animal, the owner or keeper shall post a new security deposit or bond with the municipal or county treasurer which must be received before the expiration date of the previous security deposit or bond. The court may correct, alter or otherwise adjust the new security deposit or bond upon a motion made before the expiration date of the previous security deposit or bond, provided however, no person may file more than one (1) motion seeking an adjustment to the new security deposit or bond.

(7) If a security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may draw from that security deposit or bond reasonable costs in keeping and caring for the animal from the date of the seizure to the date of final disposition of the animal in the criminal action.

(8) At the end of the time for which expenses are covered by the security deposit or bond, or if no security deposit or bond has been posted in accordance with this section, the law enforcement agency or animal care and control agency may determine disposition of the animal. The owner or keeper of the animal shall be liable for all unpaid reasonable costs of the care, keeping or disposal of the animal. Posting of the security deposit or bond shall not prevent the law enforcement agency or animal care and control agency from disposing of the seized or impounded animal before the expiration of the period covered by the security deposit or bond if the court orders the forfeiture of the animal or the owner relinquishes the animal.

(9) Upon resolution of the criminal action, remaining funds deposited with the municipal or county treasurer which have not, and will not be expended in the care, keeping or disposal of the animal shall be remitted to the owner or keeper of the animal.

(10) Irrespective of any other provision of this section, if in the written determination of a licensed veterinarian, the animal is experiencing extreme pain or suffering, or is severely injured or diseased, and therefore not likely to recover, it may be immediately euthanized.

(11) No proceeding under this section shall be used as a basis for a continuance or to delay the criminal case nor shall proceedings in the criminal case, other than dismissal, be used as a basis to delay or continue the forfeiture proceeding as provided for in this section. Proceedings under this section are of a civil nature and governed by the Idaho rules of civil procedure except as to limitations upon the discovery process. Due to the need to conduct any proceeding necessary under this section in an expeditious manner, and the right of any criminal defendant to avoid self-incrimination, any and all discovery requests shall be granted only under authority of the court. Discovery shall be authorized with the intent to provide the necessary information relating directly to the evidence for the probable cause proceeding. In no event shall discovery mechanisms be used to unreasonably burden the opposing party. Discovery mechanisms shall not include the deposition of any party, witness or representative, the use of interrogatories, or the demand to inspect any records outside the immediate reports and financial accountings for the animal in question.

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The knowledge and acts of an agent or employee of a corporation in regard to an animal transported, owned, or used by or in the custody of the corporation are the knowledge and acts of the corporation.

CREDIT(S)

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

§ 821.021. Definition

In this subchapter, "cruelly treated" includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.

CREDIT(S)

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

§ 821.0211. Additional Definition

In this subchapter, "magistrate" means any officer as defined in Article 2.09, Code of Criminal Procedure, except that the term does not include justices of the supreme court, judges of the court of criminal appeals, or courts of appeals, judges or associate judges of statutory probate courts, or judges or associate judges of district courts that give preference to family law matters or family district courts under Subchapter D, Chapter 24, Government Code.

CREDIT(S)
Acts 2003, 78th Leg., ch. 1043, § 1, eff. Sept. 1, 2003. Amended by Acts 2009, 81st Leg., ch. 334, § 10, eff. Sept. 1, 2009.

[Sections 821.005 to 821.020 reserved for expansion]

SUBCHAPTER B - Disposition of Cruelly Treated Animals

§ 821.022. Seizure of Cruelly Treated Animal

(a) If a peace officer or an officer who has responsibility for animal control in a county or municipality has reason to believe that an animal has been or is being cruelly treated, the officer may apply to a justice court or magistrate in the county or to a municipal court in the municipality in which the animal is located for a warrant to seize the animal.

(b) On a showing of probable cause to believe that the animal has been or is being cruelly treated, the court or magistrate shall issue the warrant and set a time within 10 calendar days of the date of issuance for a hearing in the appropriate justice court or

municipal court to determine whether the animal has been cruelly treated.

(c) The officer executing the warrant shall cause the animal to be impounded and shall give written notice to the owner of the animal of the time and place of the hearing.

CREDIT(S)

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 387, § 1, eff. June 7, 1991; Acts 2003, 78th Leg., ch. 1043, § 2, eff. Sept. 1, 2003.

§ 821.023. Hearing; Order of Disposition or Return of Animal

(a) A finding in a court of competent jurisdiction that the owner of an animal is guilty of an offense under Section 42.09 or 42.092, Penal Code, involving the animal is prima facie evidence at a hearing authorized by Section 821.022 that the animal has been cruelly treated.

(b) A statement of an owner made at a hearing provided for under this subchapter is not admissible in a trial of the owner for an offense under Section 42.09 or 42.092, Penal Code.

(c) Each interested party is entitled to an opportunity to present evidence at the hearing.

(d) If the court finds that the animal's owner has cruelly treated the animal, the owner shall be divested of ownership of the animal, and the court shall:

(1) order a public sale of the animal by auction;

(2) order the animal given to a nonprofit animal shelter, pound, or society for the protection of animals; or

(3) order the animal humanely destroyed if the court decides that the best interests of the animal or that the public health and safety would be served by doing so.

(e) A court that finds that an animal's owner has cruelly treated the animal shall order the owner to pay all court costs, including costs of:

(1) investigation;

(2) expert witnesses;

(3) housing and caring for the animal during its impoundment;

(4) conducting any public sale ordered by the court; and

(5) humanely destroying the animal if destruction is ordered by the court.

(f) The court may order that an animal disposed of under Subsection (d)(1) or (d)(2) be spayed or neutered at the cost of the receiving party.

(g) The court shall order the animal returned to the owner if the court does not find that the animal's owner has cruelly treated the animal.

CREDIT(S)

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 157, § 1, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, §§ 14.43, 14.44,

eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1043, § 2, eff. Sept. 1, 2003; Acts 2007, 80th Leg., ch. 886, § 4, eff. Sept. 1, 2007.

§ 821.024. Sale or Disposition of Cruelly Treated Animal

(a) Notice of an auction ordered under this subchapter must be posted on a public bulletin board where other public notices are posted for the county or municipality. At the auction, a bid by the former owner of a cruelly treated animal or the owner's representative may not be accepted.

(b) Proceeds from the sale of the animal shall be applied first to any costs owed by the former owner under Section 821.023(e). The officer conducting the auction shall pay any excess proceeds to the justice or municipal court ordering the auction. The court shall return the excess proceeds to the former owner of the animal.

(c) If the officer is unable to sell the animal at auction, the officer may cause the animal to be humanely destroyed or may give the animal to a nonprofit animal shelter, pound, or society for the protection of animals.

CREDIT(S)

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 387, § 2, eff. June 7, 1991; Acts 2003, 78th Leg., ch. 1043, § 2, eff. Sept. 1, 2003.

§ 821.025. Appeal

(a) An owner divested of ownership of an animal under Section 821.023 may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located. As a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, the owner must file a notice of appeal and an appeal bond in an amount determined by the court from which the appeal is taken to be adequate to cover the estimated expenses incurred in housing and caring for the impounded animal during the appeal process. Not later than the fifth calendar day after the date the notice of appeal and appeal bond is filed, the court from which the appeal is taken shall deliver a copy of the court's transcript to the county court or county court at law to which the appeal is made. Not later than the 10th calendar day after the date the county court or county court at law, as appropriate, receives the transcript, the court shall dispose of the appeal. The decision of the county court or county court at law under this section is final and may not be further appealed. [[

(b) While an appeal under this section is pending, the animal may not be:

(1) sold or given away as provided by Sections 821.023 and 821.024; or

(2) destroyed, except under circumstances which would require the humane destruction of the animal to prevent undue pain to or suffering of the animal.

CREDIT(S)
Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1043, § 2, eff. Sept. 1, 2003; Acts 2009, 81st Leg., ch. 1351, § 11(a), eff. Sept. 1, 2009.