

SENATE BILL NO. 421

INTRODUCED BY J. SHOCKLEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ANIMAL WELFARE HEARING LAWS; CLARIFYING THE PROCESS FOR POSTING A BOND OR SECURITY; AMENDING SECTION 27-1-434, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-434, MCA, is amended to read:

"27-1-434. Animal welfare hearing. (1) When an animal is seized from a person pursuant to an arrest for an alleged violation of 45-8-211 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where the arrest was made.

(2) The petition must contain:

(a) the purported facts regarding animal neglect and the current condition of the animal;

(b) any facts demonstrating the animal's extreme disease, injury, or suffering, if applicable; and

(c) the name and address of the respondent.

(3) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition was filed.

(4) At the hearing, the court may consider the following factors:

(a) the propriety of returning the animal to the owner given the alleged facts regarding abuse or neglect;

(b) the extent of the animal's disease, injury, or suffering, if applicable;

(c) the likelihood of viable treatment of the animal's condition, if applicable, based upon available veterinary testimony; and

(d) the availability of funding to provide for the animal's treatment, shelter, and care.

(5) Upon consideration of the factors listed in subsection (4), the court may order any of the following:

(a) immediate release of the animal to the owner;

~~(b) imposition of a bond or security in an amount sufficient to provide for the animal's care for a minimum of 30 days from the date of seizure;~~

(c)(b) euthanization of severely diseased, injured, or suffering animals; or

~~(d)~~(c) retention of the animal in a humane animal treatment shelter; or

(d) forfeiture of the animal to the law enforcement agency or animal care and control agency if the court determines abuse or neglect is present, unless the owner, within 72 hours of the hearing, posts a bond or security in an amount sufficient to repay all reasonable costs incurred and anticipated to be incurred for the animal's care for a minimum of 30 days from and including the date of seizure.

(6) (a) If a bond or security is posted pursuant to subsection (5)(d) and the time for which the expenses covered by the bond or security is about to expire, the owner may post a new bond or security prior to the expiration date of the previous bond or security in order to prevent the disposition of the animal. The court may correct, alter, or otherwise adjust the new security or bond upon a motion made prior to the expiration date of the previous bond or security.

(b) If a bond or security is posted pursuant to subsection (5)(d), a law enforcement agency or an animal care and control agency may be reimbursed, from the bond or security posted, the reasonable costs associated with keeping and caring for the animal from the date of seizure to the date of the final disposition of the animal in a criminal action.

(c) A law enforcement agency or animal care and control agency may determine the disposition of the animal if the time for which the expenses covered by the bond or security posted pursuant to this section has expired. The owner is liable for all unpaid reasonable costs of the care, keeping, and disposition of the animal.

(d) Upon resolution of the criminal action, remaining security or bond funds that have not or will not be expended in the care, keeping, or disposition of the animal must be remitted to the owner of the animal.

~~(6)~~(7) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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