

SENATE BILL NO. 203

INTRODUCED BY N. SWANDAL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING SEIZURE OF ANIMALS AND
5 ANIMAL WELFARE HEARINGS AND REQUIRING THAT CERTAIN COSTS OF AN ANIMAL'S CARE BE PAID;
6 REVISING HOW A PETITION FOR AN ANIMAL WELFARE HEARING MUST BE FILED AND WHAT IT MUST
7 INCLUDE; ALLOWING A COURT TO DETERMINE PLACEMENT OF AN ANIMAL CONSIDERING CERTAIN
8 FACTORS; PROVIDING A PROCESS FOR A COURT TO REQUIRE POSTING OF A BOND TO PAY FOR
9 EXPENSES INCURRED IN CARING FOR AN ANIMAL; REQUIRING THAT AN ANIMAL BE FORFEITED
10 UNDER CERTAIN CIRCUMSTANCES; REQUIRING POSTING OF A BOND FOR AN ANIMAL'S CARE
11 PENDING RESOLUTION OF A CIVIL PROCEEDING; AND AMENDING SECTION 27-1-434, MCA."

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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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Section 1. Section 27-1-434, MCA, is amended to read:

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16 **"27-1-434. Animal welfare hearing -- cost of animal care.** (1) (a) When an animal is seized from a
17 person ~~pursuant to an arrest for~~ by a law enforcement officer upon an alleged violation of 45-8-210, 45-8-211,
18 or 45-8-217, the prosecutor may file a petition for an animal welfare hearing in district court in the county where
19 the ~~arrest~~ seizure was made.

(b) Before a seizure occurs, the law enforcement officer SHALL:

(i) shall consult with the prosecutor regarding the alleged violation; and

22 (ii) may request that HAVE a licensed veterinarian accompany the law enforcement officer to the premises
23 to evaluate the extent of the animal's disease, injury, or suffering, UNLESS A LICENSED VETERINARIAN CANNOT BE
24 LOCATED OR THE ANIMAL OWNER HAS A PREEXISTING VETERINARIAN-CLIENT PATIENT RELATIONSHIP TO A LICENSED
25 VETERINARIAN.

26 (c) IF A LICENSED VETERINARIAN DID NOT ACCOMPANY THE LAW ENFORCEMENT OFFICER TO THE PREMISES, THE
27 LAW ENFORCEMENT OFFICER SHALL HAVE THE SEIZED ANIMAL EXAMINED BY A LICENSED VETERINARIAN WHO DOES NOT
28 HAVE A PREEXISTING VETERINARIAN-CLIENT RELATIONSHIP TO THE ANIMAL'S OWNER AS EXPEDITIOUSLY AS POSSIBLE.

(2) The petition must contain:

(a) the authority and purpose of the seizure, including the time, place, and circumstances of the seizure

1 ~~and the purported facts regarding any animal neglect and the current condition of the animal cruelty or forced~~
 2 ~~fighting in violation of 45-8-210, 45-8-211, or 45-8-217;~~

3 ~~(b) a description of the animal, including its current condition, and any facts demonstrating the animal's~~
 4 ~~extreme significant disease, injury, or suffering; ~~if applicable; and~~~~

5 ~~(c) the name and address of the respondent. If the name and address of the respondent are not available~~
 6 ~~to the petitioner after reasonable investigation, the petition must contain the address of the premises where the~~
 7 ~~animal was seized.~~

8 ~~(d) the evaluation of the licensed veterinarian if an evaluation was provided under subsection (1)(b)(ii).~~

9 ~~(3) The petitioner shall serve a true and correct copy of the petition upon the respondent. If the name~~
 10 ~~and address of the respondent are not available after reasonable investigation, the petition must be conspicuously~~
 11 ~~posted by a law enforcement officer at the premises where the animal was seized.~~

12 ~~(3)(4) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering; Upon~~
 13 ~~receipt of the petition, the court shall set the matter for hearing not more than ~~40~~ 21 days after the petition was~~
 14 ~~filed with the clerk of court. ~~Otherwise, the court shall set the matter for hearing not more than 30 days after the~~~~
 15 ~~petition was filed The court shall, no fewer than 5 days before the hearing, notify the respondent in writing of the~~
 16 ~~date and location of the hearing. If the name and address of the respondent are not available and have not been~~
 17 ~~included in the petition, the notice must be conspicuously posted by a law enforcement officer at the premises~~
 18 ~~where the animal was seized.~~

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

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

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

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

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

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

26 ~~—— (a) immediate release of the animal to the owner;~~

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

29 ~~—— (c) euthanization of severely diseased, injured, or suffering animals; or~~

30 ~~—— (d) retention of the animal in a humane animal treatment shelter.~~

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

3 (5) At the hearing, the court shall consider the extent of the animal's disease, injury, or suffering and
4 shall, no more than 5 days after the hearing, determine whether the animal will be:

5 (a) subject to subsection (8), released to the respondent; or

6 (b) held and cared for by the county or an animal shelter designated by the county, pending disposition
7 of a criminal proceeding initiated for an alleged violation of 45-8-210, 45-8-211, or 45-8-217.

8 (6) (a) If the court finds, by a preponderance of the evidence submitted, that the animal was subjected
9 to cruelty or forced fighting under 45-8-210, 45-8-211, or 45-8-217, the court may not release the animal to the
10 respondent and shall set a renewable bond in an amount sufficient to cover the reasonable expenses expected
11 to be incurred in caring for the animal for a period of 30 days.

12 (b) In setting the amount of bond to be posted, the court shall consider all of the facts and circumstances
13 of the seizure, including the need to care for the animal pending disposition of the criminal proceeding, the
14 recommendations of the animal's current caretaker, and the estimated costs of caring for the animal. The
15 respondent's ability to pay may not affect the court's determination.

16 (c) Upon an order of the court that a bond be posted, the amount of funds necessary for 30 days of the
17 animal's care must be posted with the court. Unless the amount is adjusted pursuant to a hearing held as
18 provided in subsection (6)(d), the court shall order the respondent to deposit the same amount every 30 days until
19 final disposition of the criminal proceeding.

20 (d) The respondent may request a hearing no fewer than 5 days before the expiration of the 30-day
21 period, and the court may, upon a motion by a respondent, adjust the amount of reasonable expenses to be
22 provided by the respondent.

23 (e) If the required funds are not deposited within 5 days of the issuance of the order setting the amount
24 or within 5 days after the expiration of the 30-day period, the ownership of the animal is forfeited to the county,
25 which has discretion as to the welfare of the animal.

26 (f) Once a bond has been posted in accordance with this section, the entity caring for the animal may
27 draw from the bond the actual costs incurred in caring for the animal from the date of the seizure to the date of
28 the final disposition of the criminal proceeding.

29 (7) (a) Upon final disposition of the criminal proceeding, any remaining funds deposited with the court
30 must be returned to the depositor.

1 (b) If the depositor is acquitted of all criminal charges in connection with the seized animal, the full
 2 amount of the bond, including any amount drawn and expended by the entity caring for the animal, must be
 3 returned to the depositor, and the animal must be released to the respondent.

4 ~~(8) (a) If the court does not make the finding described in subsection (6)(a), the court shall determine~~
 5 ~~whether the animal should be released to the respondent. In making this determination, the court shall consider~~
 6 ~~all of the circumstances that resulted in the animal's seizure, the propriety of releasing the animal to the~~
 7 ~~respondent given the alleged facts regarding cruelty or forced fighting under 45-8-210, 45-8-211, or 45-8-217,~~
 8 ~~and whether the respondent is able and willing to provide necessary care for the animal.~~

9 ~~(b) Before an animal may be released to the respondent under this subsection (8), the respondent shall~~
 10 ~~pay the actual costs of caring for the animal during the period subsequent to the seizure if the court finds that the~~
 11 ~~seizure was justified.~~

12 (8) IF THE COURT DOES NOT MAKE THE FINDING DESCRIBED IN SUBSECTION (6)(A), THE ANIMAL MUST BE
 13 RELEASED TO THE RESPONDENT.

14 (9) Notwithstanding any other provision of this section, an animal seized from a person for an alleged
 15 violation of 45-8-210, 45-8-211, or 45-8-217 may immediately be euthanized if, in the written determination of a
 16 licensed veterinarian, the animal is:

17 (a) experiencing substantial pain or suffering; or

18 (b) substantially injured or diseased and not likely to recover.

19 (10) Any testimony of the respondent in a hearing held as provided in this section or the result of the
 20 hearing may not be used against the respondent in the criminal proceeding.

21 (11) The provisions of this section do not apply to cattle, sheep, or swine.

22 (12) For the purposes of this section, "reasonable expenses" means the cost of providing care, including
 23 but not limited to food, water, shelter, and veterinary care or necessary medical care, to an animal."

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 25 NEW SECTION. Section 2. Care of animal in civil cases. (1) When an animal is placed under county
 26 supervision pending resolution of a civil proceeding, the court shall order imposition of a bond or security to
 27 reimburse the county for reasonable expenses incurred in caring for the animal from the time that it was placed
 28 under supervision until the time it is removed from supervision.

29 (2) The provisions of this section do not apply to cattle, sheep, or swine.

30 (3) For the purposes of this section, "reasonable expenses" means the cost of providing care, including

1 but not limited to food, water, shelter, and veterinary care or necessary medical care, to an animal.

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3 NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an
4 integral part of Title 27, chapter 1, part 4, and the provisions of Title 27, chapter 1, part 4, apply to [section 2].

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