



AN ACT REVISING LAWS GOVERNING ANIMAL WELFARE HEARINGS AND REQUIRING THAT CERTAIN COSTS OF AN ANIMAL'S CARE BE PAID; REVISING HOW A PETITION FOR AN ANIMAL COST OF CARE HEARING MUST BE FILED AND WHAT IT MUST INCLUDE; ALLOWING A COURT TO DETERMINE PLACEMENT OF AN ANIMAL CONSIDERING CERTAIN FACTORS; PROVIDING A PROCESS FOR A COURT TO REQUIRE POSTING OF A BOND OR LIEN TO PAY FOR EXPENSES INCURRED IN CARING FOR AN ANIMAL; REQUIRING THAT AN ANIMAL BE FORFEITED UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTION 27-1-434, MCA.

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~~ Cost of care of animals seized in animal cruelty and animal fighting cases. (1) When an animal is seized from a person ~~pursuant to an arrest for~~ by a law enforcement officer upon an alleged violation of 45-8-210, 45-8-211, or 45-8-217, the prosecutor may file a petition for ~~an animal welfare~~ a cost of care hearing in district court in the county where the ~~arrest seizure~~ was made.

(2) The petition must contain:

(a) the authority and purpose of the seizure, including the time, place, and circumstances of the seizure and the purported facts regarding any animal neglect and the current condition of the animal cruelty or forced fighting in violation of 45-8-210, 45-8-211, or 45-8-217;

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

(c) the name and address of the respondent unless the name and address of the respondent are not available to the petitioner after reasonable investigation, at which time the petition must contain the address of the premises where the animal was seized; and

(d) an evaluation that supports the animal's significant disease, injury, or suffering from a licensed veterinarian with experience treating the type of animal or animals in question. Livestock seized under this section

must be evaluated by a large animal veterinarian in coordination with a state livestock inspector that is considered a law enforcement officer as designated by the department of livestock in 81-1-201.

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

~~(3)(4) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering; Upon receipt of the petition, 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. The court shall notify the respondent in writing of the date and location of the hearing within 5 days of the hearing. If the name and address of the respondent are not available and have not been included in the petition, the notice must be conspicuously posted by a law enforcement officer at the premises where the animal was seized.~~

~~(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) euthanization of severely diseased, injured, or suffering animals; or~~
 - ~~—— (d) retention of the animal in a humane animal treatment shelter.~~
- ~~(6) A hearing pursuant to this section does not constitute an adjudication with regard to charges filed under 45-8-211 or 45-8-217.~~

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

(a) released to the respondent if the court does not find, by a preponderance of evidence submitted, that

the animal was subjected to cruelty or forced fighting under 45-8-210, 45-8-211, or 45-8-217; or

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

(6) (a) If the court finds, by a preponderance of evidence submitted, that the animal was subjected 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 respondent and shall set a renewable bond in an amount sufficient to cover the reasonable expenses expected to be incurred in caring for the animal for a period of 30 days.

(b) In setting the amount of bond to be posted, the court shall consider all of the facts and circumstances of the seizure, including but not limited to the need to care for the animal pending disposition of the criminal proceeding, the recommendations of the animal's current caretaker, and the estimated costs of caring for the animal. The court may take into consideration:

(i) the respondent's ability to pay for the cost of the animal's care, with the understanding that the ability to pay is not dispositive;

(ii) the likelihood that the respondent could care for the animal in the future; and

(iii) the respondent's ability to otherwise provide for the animal's care by other means while the animal is in the possession and care of the county.

(c) Upon an order of the court that a bond be posted, the amount of funds necessary for 30 days of the animal's care must be posted with the court. Unless the amount is adjusted pursuant to a hearing held as provided in subsection (6)(d), the court shall order the respondent to deposit the same amount every 30 days until final disposition of the criminal proceeding. Required payment dates must be included in the court's order, and the court has discretion to set the bond payment frequency less than 30 days.

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

(e) If the ordered funds are not deposited within 5 days of the payment dates set in the order, the ownership of the animal is forfeited to the county. The county has discretion of the animal and shall provide the court with all plans of disposal related to the animal.

(f) Once a bond has been posted in accordance with this section, the entity caring for the animal may draw from the bond the actual costs incurred in caring for the animal from the date of the cost of care hearing to

the date of the final disposition of the criminal proceeding.

(g) In lieu of bond, the respondent may submit to the county a lien on real property necessary to cover the estimated costs of care for the duration of the proceedings. The lien must be in a form and manner acceptable to the county and must be presented by an authorized owner or agent of the property encumbered.

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

(b) If the respondent is found not guilty of criminal charges in connection with the seized animal, the county shall:

(i) immediately return the animal to the respondent and return the full amount of the bond and release any applicable lien accepted in lieu of bond; or

(ii) pay the respondent the fair market value of the animal at the time of seizure, if ownership of the animal was forfeited to the county because the bond was not paid. Fair market value must be determined by the court after considering any relevant testimony, valuations, or affidavits specifically describing pecuniary loss and replacement value of the loss.

(8) An animal seized from a person for an alleged violation of 45-8-210, 45-8-211, or 45-8-217 may immediately be euthanized if, in the written determination of a licensed veterinarian, the animal is injured or diseased to the extent that it is not likely to recover. If the respondent is found not guilty of criminal charges in connection with a seized animal that was euthanized while in the possession and care of the county, the county shall pay the respondent the fair market value of the animal. The fair market value must be based on the value of the animal at the time of seizure of the animal as established by relevant testimony and valuations.

(9) For the purposes of this section, the following definitions apply:

(a) "Reasonable expenses" means the cost of providing care, including but not limited to food, water, shelter, and necessary veterinary care to an animal. Reasonable expenses do not include costs that arise from disease, injury, or suffering sustained by an animal while in the possession and care of the county.

(b) "Respondent" means the owner or owners of an animal seized by law enforcement upon an alleged violation of 45-8-210, 45-8-211, or 45-8-217."

- END -

I hereby certify that the within bill,
SB 0320, originated in the Senate.

President of the Senate

Signed this _____ day
of _____, 2019.

Secretary of the Senate

Speaker of the House

Signed this _____ day
of _____, 2019.

SENATE BILL NO. 320

INTRODUCED BY D. SALOMON, F. MOORE

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