

SECOND REGULAR SESSION

# SENATE BILL NO. 817

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Pre-filed December 21, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5364S.011

## AN ACT

To repeal sections 578.018 and 578.030, RSMo, and to enact in lieu thereof two new sections relating to the disposition of impounded animals.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 578.018 and 578.030, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 578.018 and 578.030, to  
3 read as follows:

578.018. 1. Any duly authorized [public health official or law enforcement  
2 official] **peace officer, as such term is defined in section 590.010**, may seek  
3 a warrant from the appropriate court to enable him or her to enter private  
4 property in order to inspect, care for, or impound neglected or abused animals **or**  
5 **animals used in violation of section 578.025**. All requests for such warrants  
6 shall be **signed, witnessed, and** accompanied by an affidavit stating the  
7 probable cause to believe a violation of sections 578.005 to [578.023] **578.025** has  
8 occurred. A person acting under the authority of a warrant shall:

9 (1) Be given a disposition hearing before the court through which the  
10 warrant was issued, within [thirty] **ten** days of [the filing of the request] **any**  
11 **animal impoundment** for the purpose of granting immediate **and final**  
12 disposition of [the animals impounded] **such animals. No animal shall be**  
13 **sterilized, as that term is defined in section 273.400, prior to the**  
14 **completion of such disposition hearing unless a licensed veterinarian**  
15 **determines that such action is necessary to save the life, or relieve the**  
16 **suffering, of such animal;**

17 (2) Place impounded animals in the care or custody of a veterinarian, the  
18 appropriate animal control authority, or an animal shelter. If no appropriate

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 veterinarian, animal control authority, or animal shelter is available, the animal  
20 shall not be impounded unless it is diseased or disabled beyond recovery for any  
21 useful purpose;

22 (3) Humanely [kill] **euthanize** any animal impounded if it is determined  
23 by a licensed veterinarian that the animal is diseased or disabled beyond recovery  
24 for any useful purpose;

25 (4) Not be liable for any **reasonable and** necessary damage to property  
26 while acting under such warrant.

27 2. The **disposition hearing shall be conducted as follows:**

28 (1) **If the court holding the disposition hearing finds, by a**  
29 **preponderance of the evidence, that an impounded animal was abused**  
30 **or neglected as defined in sections 578.009 and 578.012, respectively, or**  
31 **was used in violation of section 578.025, the court shall not return any**  
32 **of the seized animals to its then-owner or custodian, or to any other**  
33 **individual in any way responsible for, participating in, or allowing to**  
34 **occur, such abuse, neglect, or violation of section 578.025;**

35 (2) **The court's judgment in the disposition hearing shall be a**  
36 **final and appealable civil judgment. The court's final judgment at such**  
37 **hearing shall not be admissible in the trial of any criminal prosecution**  
38 **that arose out of the same factual circumstances that precipitated the**  
39 **animal's impoundment;**

40 (3) **If the disposition hearing court finds that an animal was not**  
41 **lawfully impounded, the owner of that animal shall not be responsible**  
42 **for the costs of that animal's care, custody, or keeping between the date**  
43 **of impoundment and the disposition hearing judgment;**

44 (4) **If in its judgment, the disposition hearing court does not**  
45 **return an animal to its then-owner or custodian and awards that**  
46 **animal to someone other than the then-owner or custodian, such owner**  
47 **or custodian or any person claiming an interest in [any] such animal [that has**  
48 **been impounded because of neglect or abuse] may prevent disposition of the**  
49 **animal by posting reasonable bond or security in an amount sufficient to**  
50 **provide for the animal's care and keeping [for at least thirty days, inclusive of the**  
51 **date on which the animal was taken into custody] while that person or entity**  
52 **appeals the court's disposition judgment. The bond or security shall be**  
53 **set in an amount sufficient to provide for the animal's care and keeping**  
54 **from its impoundment through the anticipated appeals process. Such**

55 **bond or security shall be posted to the registry of the court within two**  
56 **business days from the court's judgment setting such bond or**  
57 **security.** Notwithstanding the fact that bond may be posted pursuant to this  
58 subsection, the authority having custody of the animal **shall notify the court**  
59 **two business days prior to the end of the time for which reasonable**  
60 **expenses are covered by the bond or security, at which time the court**  
61 **may require an additional bond or security to provide for the animal's**  
62 **care and keeping to be posted with the registry of the court within two**  
63 **business days from the court's judgment setting any additional bond or**  
64 **security. If, after two business days have lapsed, or if no appeal is filed**  
65 **within the time allowed under law, the authority having custody of the**  
66 **animal may humanely dispose of, adopt, or humanely euthanize** the animal  
67 at the end of the time for which **reasonable** expenses are covered by the bond  
68 or security[, unless there is a court order prohibiting such disposition. Such  
69 order shall provide for a bond or other security in the amount necessary to protect  
70 the authority having custody of the animal from any cost of the care, keeping or  
71 disposal of the animal.];

72 **(5)** The authority taking custody of an animal shall give notice of the  
73 provisions of this section by posting a copy of this section at the place where the  
74 animal was taken into custody or by delivering it to a person residing on the  
75 property.

76 **3.** The owner or custodian of any animal humanely [killed] **euthanized**  
77 pursuant to this section shall not be entitled to recover any damages related to  
78 nor the actual value of the animal if the animal was found by a licensed  
79 veterinarian to be diseased or disabled, or if the owner or custodian failed to post  
80 bond or security for the care, keeping and disposition of the animal [after being  
81 notified of impoundment] **as set forth in this section.**

82 **4.** **All animals impounded under this section shall receive proper**  
83 **care as determined by state law and regulations for each specific**  
84 **animal and facility or organization where the animal is placed after**  
85 **such impoundment. In addition to such animal receiving proper care,**  
86 **the owner or custodian of such animal may, at any time during the ten**  
87 **day period prior to the disposition hearing or any time during the**  
88 **appeals process, file a personalized care plan for the animal with the**  
89 **court. At such time, the court may require an additional bond or**  
90 **security to be posted by the owner or custodian for such animal's**

91 **personalized care. Such bond or security cost shall be reimbursed to**  
92 **the animal's owner or custodian if the court finds that an animal was**  
93 **not lawfully impounded at any time between the date of impoundment**  
94 **and the final judgment of the appellate court.**

578.030. 1. The provisions of section 43.200 notwithstanding, any member  
2 of the state highway patrol or other law enforcement officer may apply for and  
3 serve a search warrant, and shall have the power of search and seizure in order  
4 to enforce the provisions of sections [578.025] **578.005** to 578.050.

5 **2. The provisions of section 578.018 shall apply to any animals**  
6 **impounded under a warrant where such animals were used in violation**  
7 **of section 578.025.** Any member of the state highway patrol or other law  
8 enforcement officer making an arrest under section 578.025 shall lawfully take  
9 possession of all dogs or other animals and all paraphernalia, implements, or  
10 other property or things used or employed, or about to be employed, in the  
11 violation of any of the provisions of section 578.025. Such officer, after taking  
12 possession of such dogs, animals, paraphernalia, implements or other property or  
13 things, shall file with the court before whom the complaint is made against any  
14 person so arrested an affidavit stating therein the name of the person charged in  
15 such complaint, a description of the property so taken and the time and place of  
16 the taking thereof together with the name of the person from whom the same was  
17 taken and the name of the person who claims to own such property, if known, and  
18 that the affiant has reason to believe and does believe, stating the ground of such  
19 belief, that the property so taken was used or employed, or was about to be used  
20 or employed, in such violation of section 578.025. He or she shall thereupon  
21 deliver the property so taken to the court, which shall, by order in writing, place  
22 the same in the custody of an officer or other proper person named and  
23 designated in such order, to be kept by him or her until the conviction or final  
24 discharge of such person complained against, and shall send a copy of such order  
25 without delay to the prosecuting attorney of the county. The officer or person so  
26 named and designated in such order shall immediately thereupon assume the  
27 custody of such property and shall retain the same, subject to the order of the  
28 court before which such person so complained against may be required to appear  
29 for trial. Upon the conviction of the person so charged, all property so seized  
30 shall be adjudged by the court to be forfeited and shall thereupon be destroyed  
31 or otherwise disposed of as the court may order. In the event of the acquittal or  
32 final discharge without conviction of the person so charged, such court shall, on

33 demand, direct the delivery of such property so held in custody to the owner  
34 thereof.

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