

SENATE BILL NO. 320

INTRODUCED BY D. SALOMON, F. MOORE

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

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

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

15 **"27-1-434. Animal welfare hearing Cost of care of animals seized in animal cruelty and animal**
16 **fighting cases.** (1) When an animal is seized from a person ~~pursuant to an arrest for~~ by a law enforcement officer
17 upon an alleged violation of 45-8-210, 45-8-211, or 45-8-217, the prosecutor may file a petition for ~~an animal~~
18 ~~welfare~~ a cost of care hearing in district court in the county where the ~~arrest seizure~~ was made.

19 (2) The petition must contain:

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

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

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

28 (d) an evaluation from a licensed veterinarian with experience treating the type of animal or animals in
29 question. Livestock seized under this section must be evaluated by a large animal veterinarian in coordination
30 with a state livestock inspector THAT IS CONSIDERED A LAW ENFORCEMENT OFFICER AS DESIGNATED BY THE

1 DEPARTMENT OF LIVESTOCK IN 81-1-201.

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

5 ~~(3)~~(4) If the court finds probable cause that the animal exhibits extreme disease, injury, or suffering; Upon
 6 receipt of the petition, the court shall set the matter for hearing not more than 10 days after the petition was filed
 7 with the clerk of court. Otherwise, the court shall set the matter for hearing not more than 30 days after the petition
 8 was filed. The court shall notify the respondent in writing of the date and location of the hearing within 5 days of
 9 the hearing. If the name and address of the respondent are not available and have not been included in the
 10 petition, the notice must be conspicuously posted by a law enforcement officer at the premises where the animal
 11 was seized.

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

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

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

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

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

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

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

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

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

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

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

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

28 (a) released to the respondent if the court does not find, by a preponderance of evidence submitted, that
 29 the animal was subjected to cruelty or forced fighting under 45-8-210, 45-8-211, or 45-8-217; or

30 (b) held and cared for by the county or an animal shelter designated by the county, pending disposition

1 of a criminal proceeding initiated for an alleged violation of 45-8-210, 45-8-211, or 45-8-217.

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

6 (b) In setting the amount of bond to be posted, the court shall consider all of the facts and circumstances
7 of the seizure, including the need to care for the animal pending disposition of the criminal proceeding, the
8 recommendations of the animal's current caretaker, and the estimated costs of caring for the animal. The court
9 may take into consideration:

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

12 (ii) the likelihood that the respondent could care for the animal in the future.

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

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

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

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

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

30 (7) (a) Upon final disposition of the criminal proceeding, any remaining funds deposited with the court

1 must be returned to the depositor.

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

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

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

10 (8) An animal seized from a person for an alleged violation of 45-8-210, 45-8-211, or 45-8-217 may
11 immediately be euthanized if, in the written determination of a licensed veterinarian, the animal is injured or
12 diseased to the extent that it is not likely to recover.

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

14 (a) "reasonable expenses" means the cost of providing care, including but not limited to food, water,
15 shelter, and necessary veterinary care to an animal; and

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

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