

A-Engrossed
House Bill 3283

Ordered by the House April 26
Including House Amendments dated April 26

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Amends findings by Legislative Assembly regarding provision of care and treatment for impounded or seized animals. **Revises provisions regarding defendant's payment of costs to provide animal with minimum care.**

Prohibits person convicted of animal neglect in the first degree or animal neglect in the second degree from possessing certain animals for period of 15 years after conviction if crime of conviction was felony. **Allows reduction in prohibition period if convicted person successfully completes mental health treatment approved by court.**

Clarifies that person convicted of possessing animal in violation of prohibition may be further prohibited from possessing certain animals as condition of probation.

A BILL FOR AN ACT

1
2 Relating to animals; creating new provisions; and amending ORS 167.305, 167.332 and 167.350.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 167.305 is amended to read:

5 167.305. The Legislative Assembly finds and declares that:

6 (1) Animals are sentient beings capable of experiencing pain, stress and fear;

7 (2) Animals should be cared for in ways that minimize pain, stress, fear and suffering;

8 (3) The suffering of animals can be mitigated by expediting the disposition of abused animals
9 that would otherwise languish in cages while their defendant owners await trial;

10 (4) The suffering of animals at the hands of unlicensed animal rescue organizations that are
11 unable to provide sufficient food and care for the animals can be reduced by requiring such organ-
12 izations to comply with regulations;

13 (5) The State of Oregon has an interest in facilitating the mitigation of costs of care incurred
14 by *[persons and government agencies that provide]* **a government agency, a humane investigation**
15 **agency or its agent or a person that provides** treatment for impounded animals;

16 (6) **A government agency, a humane investigation agency or its agent or a person that**
17 **provides care and treatment for impounded or seized animals:**

18 (a) **Has an interest in mitigating the costs of the care and treatment in order to ensure**
19 **the swift and thorough rehabilitation of the animals; and**

20 (b) **May mitigate the costs of the care and treatment through funding that is separate**
21 **from, and in addition to, any recovery of reasonable costs that a court orders a defendant**
22 **to pay while a forfeiture proceeding is pending or subsequent to a conviction;**

23 [(6)] (7) Use of preconviction civil remedies is not an affront to the presumption of innocence;
24 and

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 [(7)] (8) Amendments to current law are needed to ensure that interested parties are afforded
2 adequate notice and an opportunity to be heard and thus cannot unduly delay or impede animal lien
3 foreclosure and preconviction forfeiture processes through unfounded due process claims.

4 **SECTION 2.** ORS 167.332 is amended to read:

5 167.332. (1) Except as provided in subsections (3) and (4) of this section:

6 (a) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315,
7 [167.325, 167.330,] 167.340 or 167.355 or of a misdemeanor under ORS 167.320, **167.325 or 167.330** may
8 not possess [*a domestic animal or*] any animal of the same genus against which the crime was com-
9 mitted **or any domestic animal** for a period of five years following entry of the conviction.

10 (b) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322,
11 167.333, 167.365 or 167.428 or of a felony under ORS 167.320, **167.325 or 167.330** may not possess [*a*
12 *domestic animal or*] any animal of the same genus against which the crime was committed **or any**
13 **domestic animal** for a period of 15 years following entry of the conviction. **However, the sen-**
14 **tencing court may reduce the prohibition period if the person successfully completes mental**
15 **health treatment approved by the court.**

16 (2) A person who possesses an animal in violation of this section commits a Class C
17 misdemeanor. When a person is convicted of possessing an animal in violation of this section, as part
18 of the sentence the court may order the removal of that animal from the person's residence and **as**
19 **a condition of the person's probation** may prohibit the person from possessing any animal of the
20 same genus that the person unlawfully possessed under this section or against which the underlying
21 violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or
22 167.428 was committed.

23 (3) The animal possession prohibition described in subsection (1) of this section does not apply
24 to a person's first conviction if the person is the owner of a commercial livestock operation and the
25 underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355,
26 167.365 or 167.428 was committed against livestock.

27 (4)(a) A person subject to an animal possession prohibition described in subsection (1) of this
28 section may file a motion with the sentencing court requesting a waiver of the prohibition. The
29 person must file a sworn affidavit in support of the motion stating that:

30 (A) The person's conviction leading to the possession prohibition involved only livestock;

31 (B) During the two years before the conviction triggering the prohibition, the person was the
32 owner of a commercial livestock operation;

33 (C) The person has not been convicted, in the previous five years, of a crime involving animals
34 or domestic violence or a crime where the victim was under 18 years of age; and

35 (D) The person's conviction was the result of:

36 (i) Criminal liability for the conduct of another person under ORS 161.155 (2)(c);

37 (ii) Criminal liability of a corporation as described in ORS 161.170, and the person is a corpo-
38 ration; or

39 (iii) Animal neglect as described in ORS 167.325 or 167.330 and the person's criminal conduct
40 was not knowing or intentional.

41 (b) When a person files a motion and affidavit described in paragraph (a) of this subsection, the
42 sentencing court shall hold a hearing. At the hearing, the sentencing court shall grant the motion
43 if the person proves by clear and convincing evidence that:

44 (A) Continued enforcement of the prohibition against possessing livestock would result in sub-
45 stantial economic hardship that cannot otherwise be mitigated;

1 (B) The person no longer poses any risk to animals; and

2 (C) The person is capable of providing and willing to provide necessary, adequate and appro-
3 priate levels of care for all livestock that would come within the person's custody or control if the
4 petition is granted.

5 (c) When deciding a motion filed under this subsection, the sentencing court may consider the
6 person's financial circumstances and mental health in determining whether the person is capable of
7 adequately caring for livestock.

8 (d) If the sentencing court grants the motion described in this subsection, the waiver of the
9 prohibition against possessing animals shall apply only to livestock. The sentencing court shall fur-
10 ther order that for five years the person must consent to reasonable inspections by law enforcement
11 and the United States Department of Agriculture to ensure the welfare of the livestock under the
12 person's custody or control. A refusal to consent to a reasonable inspection described in this para-
13 graph is contempt of court and, if the person is found in contempt, shall result in the sentencing
14 court revoking the waiver of the possession prohibition.

15 (e) As used in this subsection, "commercial livestock operation" means a business engaged in
16 the raising, breeding or selling of livestock for profit.

17 **SECTION 3.** ORS 167.350 is amended to read:

18 167.350. (1)(a) In addition to and not in lieu of any other sentence it may impose, a court may
19 require a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to forfeit
20 any rights of the defendant in the animal subjected to the violation, and to repay the reasonable
21 costs incurred by *[any]* **a government agency, a humane investigation agency or its agent or**
22 **a person** *[or agency]* prior to judgment in caring for each animal *[subjected to the violation]* **associ-**
23 **ated with the criminal proceeding.**

24 **(b) If a government agency or a humane investigation agency or its agent provides care**
25 **and treatment for impounded or seized animals, a court that orders a defendant to repay**
26 **reasonable costs of care under paragraph (a) of this subsection may not reduce the incurred**
27 **cost amount based on the agency having received donations or other funding for the care.**

28 (2)(a) When the court orders the defendant's rights in the animal to be forfeited, the court may
29 further order that those rights be given over to an appropriate person or agency demonstrating a
30 willingness to accept and care for the animal or to the county or an appropriate animal care agency
31 for further disposition in accordance with accepted practices for humane treatment of animals. The
32 court may not transfer the defendant's rights in the animal to any person who resides with the de-
33 fendant.

34 (b) This subsection does not limit the right of the person or agency to whom rights are granted
35 to resell or otherwise make disposition of the animal. A transfer of rights under this subsection
36 constitutes a transfer of ownership. The court shall require a person to whom rights are granted to
37 execute an agreement to provide minimum care to the animal. The agreement must indicate that
38 allowing the defendant to possess the animal constitutes a crime.

39 (3) In addition to and not in lieu of any other sentence it may impose, a court may order the
40 owner or person having custody of an animal to repay *[the]* **any** reasonable costs incurred by *[any]*
41 **a government agency, a humane investigation agency or its agent or a person** *[or agency]* in
42 providing minimum care to the animal **that are not included in a repayment order under sub-**
43 **section (1) of this section.**

44 (4) A court may order a person convicted under ORS 167.315 to 167.333, 167.340, 167.355, 167.365
45 or 167.428 to participate in available animal cruelty prevention programs or education programs, or

1 both, or to obtain psychological counseling for treatment of mental health disorders that, in the
2 court's judgment, contributed to the commission of the crime. The person shall bear any costs in-
3 curred by the person for participation in counseling or treatment programs under this subsection.

4 (5) ORS 131.550 to 131.600 do not apply to the forfeiture of an animal subjected to a violation
5 of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. Any such animal is subject to forfei-
6 ture as provided in subsections (1) to (3) of this section or, if the animal is a fighting bird, as pro-
7 vided in ORS 167.435.

8 **SECTION 4. The amendments to ORS 167.332 by section 2 of this 2017 Act apply to crimes**
9 **committed on or after the effective date of this 2017 Act.**

10 **SECTION 5. The amendments to ORS 167.350 by section 3 of this 2017 Act apply to re-**
11 **payment orders issued by a court on or after the effective date of this 2017 Act.**

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