

ENROLLED ACT NO. 59, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

AN ACT relating to crimes and offenses; amending enforcement provisions; providing for the possession and care of impounded animals as a result of charges; amending provisions relating to the cost and disposition of impounded animals; providing alternative processes as specified; providing for an expedited court hearing; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 6-3-1001 is created to read:

6-3-1001. Impounding and forfeiture hearing.

(a) Any person with authority to enforce this article or W.S. 11-29-101 through 11-29-115 and who has probable cause to believe there has been a violation of this article may impound any animal treated cruelly. The following shall apply to impounding an animal under this subsection:

(i) If any animal is impounded under this subsection the following shall apply:

(A) Within the earlier of seventy-two (72) hours of impoundment or charges being filed, the circuit court shall hold a hearing to set a bond in an amount the circuit court determines is sufficient to provide for the animal's reasonable costs of impoundment for at least ninety (90) days including the day on which the animal was impounded. At the request of the owner of the animal, the court may make a determination on the disposition of the animal at a hearing pursuant to this subparagraph;

(B) The bond shall be posted by the owner of the animal with the circuit court in the county where

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the animal was impounded within ten (10) days after the hearing required by this subparagraph.

(ii) When the bond required by paragraph (i) of this subsection expires, if the owner of the animal desires to prevent disposition of the animal by the person with authority to enforce this article or W.S. 11-29-101 through 11-29-115, the owner shall post a new bond with the court as described in paragraph (i) of this subsection. The court may correct, alter or otherwise adjust the new bond before the expiration date of the previous bond;

(iii) If a bond is not posted under paragraphs (i) or (ii) of this subsection, the person with authority to enforce this article or W.S. 11-29-101 through 11-29-115 shall dispose of the animal. As used in this section, "dispose" means to place for adoption, sell, destroy or return to the owner. The owner of the animal shall be liable for all costs associated with the final disposition of the animal under this subsection. Posting of a bond shall not prevent the person with authority to enforce this article or W.S. 11-29-101 through 11-29-115 from disposing of the impounded animal before the expiration of the period covered by the bond if during a disposition hearing pursuant to paragraph (vi) of this subsection the court orders the forfeiture of the animal to a person with authority to enforce this article or W.S. 11-29-101 through 11-29-115 or the owner voluntarily forfeits the animal. No animal shall be forfeited pursuant to paragraph (vi) of this subsection without a hearing pursuant to paragraphs (vi) through (viii) of this subsection, regardless of whether a bond is posted, if the animal is connected to the livelihood or ability to make a living of the owner;

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(iv) If a bond has been posted in accordance with paragraph (i) or (ii) of this subsection, the person with authority to enforce this article or W.S. 11-29-101 through 11-29-115 may draw from the bond the actual costs of the activities described in paragraph (i) of this subsection, from the date of initial impoundment to the date of final disposition of the animal;

(v) Upon the final disposition of the animal, any bond amount remaining that has not been expended in the impoundment and disposition of the animal shall be remitted to the owner of the animal;

(vi) A person with authority to enforce this article or W.S. 11-29-101 through 11-29-115 or other participant in the criminal action may file a petition in the criminal action requesting the court issue an order providing for the final disposition of the animal if:

(A) The animal is in the possession of and being held by a person with authority to enforce this article or W.S. 11-29-101 through 11-29-115;

(B) The outcome of the criminal action charging a violation of this article is pending; and

(C) The final disposition of the animal has not occurred.

(vii) Upon receipt of a petition pursuant to paragraph (vi) of this subsection, the court shall set a hearing on the petition for disposition of the animal. The hearing shall be conducted within seven (7) days after the filing of the petition or as soon as practicable

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thereafter. The hearing shall be limited to the question of the disposition of the animal;

(viii) At a hearing conducted pursuant to paragraph (vii) of this subsection, the prosecutor shall have the burden of proving by a preponderance of the evidence that the animal was subjected to a violation of this article. After the hearing, if the court finds by a preponderance of the evidence that the animal was subjected to a violation of this article, the court may order immediate forfeiture of the animal to the person with authority to enforce this article or W.S. 11-29-101 through 11-29-115. If, after the hearing, the court finds by a preponderance of the evidence that the animal was not subjected to a violation of this article, the animal shall be returned to the owner of the animal and the owner shall not be responsible for any costs of the impoundment incurred after a finding that the animal was not subjected to a violation of this article unless the person later pleads guilty to or is found guilty of a violation of this article.

Section 2. W.S. 11-29-101(a) by creating new paragraphs (vii) and (viii) and by renumbering (vii) as (ix), 11-29-114(a), (c) through (e) and by creating new subsections (f) through (j) are amended to read:

11-29-101. Definitions.

(a) As used in this act:

(vii) A "person with authority to enforce this chapter" means a peace officer, agent or officer of the board;

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(viii) "Reasonable costs of impoundment" means all costs incurred by the impounding entity in providing necessary food and water, veterinary attention and treatment for any animal which is impounded under this act;

(vii)(ix) "This act" means W.S. 11-29-101 through 11-29-115.

11-29-114. Impoundment of livestock animals; cost of care for livestock animals; providing for bond, forfeiture hearing.

(a) Any ~~peace officer, agent or officer of the board~~ person with authority to enforce this chapter who has probable cause to believe there has been a violation of this chapter may, ~~take possession of in consultation with an agent or officer of the board,~~ impound any livestock animal treated cruelly as determined by a Wyoming licensed veterinarian or veterinarian employed by the board.

(c) When the bond required by subsection (b) of this section expires, if the owner of the livestock animal desires to prevent disposition of the livestock animal by the ~~board~~ person with authority to enforce this chapter, the owner shall post a new bond with the court as described in subsection (b) of this section. The court may correct, alter or otherwise adjust the new bond before the expiration date of the previous bond.

(d) If a bond is not posted under subsection (b) or (c) of this section, the ~~board~~ person with authority to enforce this chapter shall dispose of the livestock animal. ~~as defined in W.S. 11-24-101(a)(iv)~~ As used in this section, "dispose" means as defined in W.S. 11-24-101(a)(iv), and shall also mean to place for adoption

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or return to the owner. The owner of the livestock animal shall be liable for all costs associated with the final disposition of the livestock animal under this subsection. Posting of a bond shall not prevent the person with authority to enforce this chapter from disposing of the impounded livestock animal before the expiration of the period covered by the bond if during a disposition hearing pursuant to subsection (g) of this section the court orders the forfeiture of the livestock animal to a person with authority to enforce this chapter or the owner voluntarily forfeits the livestock animal. No animal shall be forfeited without a hearing pursuant to subsections (g) through (j) of this section, regardless of whether a bond is posted, if the animal is connected to the livelihood or ability to make a living of the owner.

(e) If a bond has been posted in accordance with subsection (b) or (c) of this section, the ~~agency employing the officer, or the board~~ person with authority to enforce this chapter, may draw from the bond the actual costs as described in subsection (b) of this section, from the date of initial impoundment to the date of final disposition of the livestock animal.

(f) Upon the final disposition of the livestock animal, any bond amount remaining that has not been expended in the impoundment and disposition of the livestock animal shall be remitted to the owner of the livestock animal.

(g) A person with authority to enforce this chapter or other participant in the criminal action, may file a petition in the criminal action requesting that the court issue an order providing for the final disposition of the livestock animal if:

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(i) The livestock animal is in the possession of and being held by a person with authority to enforce this chapter;

(ii) The outcome of the criminal action charging a violation of this chapter is pending; and

(iii) The final disposition of the livestock animal has not occurred.

(h) Upon receipt of a petition pursuant to subsection (g) of this section, the court shall set a hearing on the petition for disposition of the livestock animal. The hearing shall be conducted within seven (7) days after the filing of the petition or as soon as practicable thereafter. The hearing shall be limited to the question of the disposition of the livestock animal.

(j) At a hearing conducted pursuant to subsection (h) of this section, the prosecutor shall have the burden of proving by a preponderance of the evidence that the livestock animal was subjected to a violation of this chapter. After the hearing, if the court finds by a preponderance of the evidence that the livestock animal was subjected to a violation of this chapter, the court may order immediate forfeiture of the livestock animal to the person with authority to enforce this chapter. If, after the hearing, the court finds by a preponderance of the evidence that the livestock animal was not subjected to a violation of this chapter, the livestock animal shall be returned to the owner of the livestock animal and the owner shall not be responsible for any reasonable costs of the impoundment incurred after a finding that the livestock animal was not subjected to a violation of this chapter

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unless the person later pleads guilty to or is found guilty of a violation of this chapter.

Section 3. W.S. 6-3-1005(a)(i) and (b) as created by 2021 Wyoming Session Laws, Chapter 30 is amended to read:

6-3-1005. Felony cruelty to animals; penalty.

(a) A person commits felony cruelty to animals if the person:

(i) Commits ~~aggravated~~—cruelty to animals as defined in W.S. 6-3-1002(a)(v) through (ix), that results in the death or required euthanasia of the animal; or

(b) Felony cruelty to animals is a felony punishable by:

(i) Permanent forfeiture of the animal or livestock animal; and

(ii) Imprisonment for not more than two (2) years, a fine of not more than five thousand dollars (\$5,000.00), or both.

Section 4. W.S. 11-29-101, 11-29-108 and 11-29-109 as amended by 2021 Wyoming Session Laws, Chapter 30 are amended to read:

11-29-108. Livestock board; seized livestock animals and vehicles; lien on seized chattels; civil action for unpaid expenses.

When any person arrested under this act is in charge of any vehicle drawn by or containing any livestock animal cruelly

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treated in violation of W.S. 6-3-1002 or this chapter at the time of arrest, any peace officer, agent or officer of the board may take charge of the livestock animal and vehicle and its contents, and give notice thereof to the owner, if known, and shall provide for them until their owner takes possession of them. The board or local government shall have a lien on the livestock animals, the vehicle and its contents for the ~~expense of the care and provision~~ reasonable costs of impoundment. The expense or any part remaining unpaid may be recovered by the board or local government in a civil action.

11-29-109. Livestock board; care of abandoned livestock animals; civil action for expenses; lien.

Any peace officer, agent or officer of the board may take charge of any livestock animal found abandoned, neglected or treated with cruelty in violation of W.S. 6-3-1002 or this chapter. He shall give notice to the owner, if known, and may care and provide for the livestock animal until the livestock animal is ~~released or destroyed~~ disposed of. The ~~expenses of care and provision is~~ reasonable costs of impoundment are a charge against the owner of the livestock animal and collectible from the owner by the board or by the local government employing the peace officer taking charge of the livestock animal in a civil action. The board or local government may detain the livestock animals until the ~~expense for food, shelter and care is~~ reasonable costs of impoundment are paid and shall have a lien upon the livestock animals therefor. This lien shall be filed as provided pursuant to W.S. 29-7-101 through 29-7-106.

Section 5. W.S. 11-29-114(b) as amended by 2021 Wyoming Session Laws, Chapter 30 is repealed and recreated to read:

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11-29-114. Impoundment of livestock animals; cost of care for livestock animals; providing for bond.

(b) If any livestock animal is impounded under subsection (a) of this section, the following shall apply:

(i) Within the earlier of seventy-two (72) hours of impoundment or charges being filed, the circuit court shall hold a hearing to set a bond in an amount the circuit court determines is sufficient to provide for the livestock animal's reasonable costs of impoundment for at least ninety (90) days including the day on which the livestock animal was impounded. At the request of the owner of the livestock animal, the court may make a determination on the disposition of the livestock animal at a hearing pursuant to this paragraph;

(ii) The bond shall be posted by the owner of the livestock animal with the circuit court in the county where the livestock animal was impounded within ten (10) days after the hearing required by this paragraph.

ORIGINAL SENATE
FILE NO. SF0025

ENGROSSED

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Section 6.

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2021.

(b) Sections 5 and 6 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk