

To: All Legislators
From: Senator Tim Carpenter
Re: Co-sponsor LRB 1643/1 regarding animals taken into custody
Deadline: March 22, 2013

I will be introducing legislation to change state laws related to the custody and disposition of animals that are taken in custody by a city, county, town or village.

Dogs alleged to be involved in dogfighting can be seized and held as evidence. In some cases, dogs have been kept for months or even years while court cases proceed. This can cause extraordinary expenses and hardship for local government, and for private and public animal shelters. Also, due to the length of time prior to resolution of legal proceedings, it can decrease the chances of such dogs being rehabilitated and adopted.

This bill will change state law to provide clearer rules enabling a court to require that an owner of an animal who is the subject of a Chapter 173 seizure or a Chapter 951 criminal case, to pay for the reasonable costs of custody and care for the animal.

The bill will also allow local animal shelters working under contract with a political subdivision and that have custody of an animal impounded under Chapter 173 to directly petition a court for an early disposition of the civil matter.

The bill will also set reasonable time limits for the court to act on certain items related to any animal seizure and for the owner to respond to various steps in order to expedite the entire disposition process under Chapter 173.

The bill will also remove the requirement that an animal alleged to have been involved in fighting be maintained in custody pending the outcome of any criminal charges, and instead allow that the animal be retained in custody for a period that is reasonable to allow the collection of evidence relating to the animal.

If you would like to sign on as a co-sponsor, please respond by return email or 6-8535 by Noon on Friday, March 22, 2013.

Attached is a copy of the bill with the Legislative Reference Bureau Analysis for your review.

Analysis by the Legislative Reference Bureau

This bill changes the laws related to animals that are taken into custody on behalf of a city, village, town, or county (political subdivision).

Seizure and withholding of animals

Current law authorizes a humane officer or law enforcement officer to take custody of an animal on behalf of a political subdivision for a number of reasons, including that the animal is a stray

or that the humane officer or law enforcement officer has reasonable grounds to believe that the animal has been involved in animal fighting or has been mistreated in violation of state law. Under current law, a political subdivision may contract with another person (contractor), such as a humane society, to provide custody and care of animals taken into custody on behalf of the political subdivision.

Under current law, an animal taken into custody must generally be returned to its owner if the owner provides reasonable evidence of ownership, provides for any required licensure and vaccination of the animal, and pays the costs of custody and care of the animal. Under this bill, an owner who wishes to obtain the return of an animal in custody must also arrange to have a microchip implanted in the animal for identification.

Current law authorizes a political subdivision to withhold an animal from its owner if there are reasonable grounds to believe that the owner has mistreated the animal in violation of state law; there are reasonable grounds to believe that the animal poses a significant threat to public health, safety, or welfare; the animal may be used as evidence in a pending prosecution; or a court has ordered the animal withheld for any reason.

If an animal is taken into custody because the animal is alleged to have been involved in fighting, current law requires the animal to be kept in custody pending the resolution of criminal charges relating to the alleged animal fighting. This bill eliminates the provision requiring an animal alleged to have been involved in fighting to be maintained in custody pending the outcome of the charges. Under this bill, the provisions relating to an animal in custody that is believed to have been involved in animal fighting are the same as those relating to an animal believed to have been mistreated in violation of state law.

Current law provides that if the owner of an animal is convicted of involvement in animal fighting, the animal is one year old or older, and the animal shows indication of having been involved in fighting, the animal must be euthanized. This bill eliminates that provision.

Petitions seeking return of animals in custody

Under current law, a person claiming that an animal that he or she owns was improperly taken into custody or withheld by or on behalf of a political subdivision may petition a court to order the return of the animal. The court must order the animal returned to the owner unless the court makes one of several specified determinations. One basis for denying a petition is that there are reasonable grounds to believe that the owner has mistreated the animal in violation of state law.

Under this bill, the owner of an animal must file a petition for return of the animal no later than the seventh day after the day on which the animal was taken into custody. The bill requires the owner to serve a copy of the petition on the contractor with custody of the animal as well as on the political subdivision. This bill generally requires the court to hold a hearing on the issue of whether the animal was improperly taken into custody or withheld within 10 days of the filing of the petition.

Other petitions concerning animals in custody

Under current law, a political subdivision may petition a court for an order with respect to an animal taken into custody or withheld from the owner. The political subdivision must notify the

owner of the animal when it files a petition. In a petition, a political subdivision may ask the court to provide for payment for the custody and care for the animal, to require the owner to post bond for the costs of custody and care for the animal pending the outcome of another court proceeding (such as a criminal case related to the animal), or to authorize the sale, destruction, or other disposal of the animal. The court may grant, modify, or deny petitioned-for relief, after considering the interests of the animal, the owner of the animal, the political subdivision, and the public. If an owner does not comply with an order directed to the owner, the animal is treated as an unclaimed animal, which means that the entity with custody of the animal may dispose of the animal by, for example, releasing it to another person.

This bill allows a contractor with custody of an animal, in addition to a political subdivision, to petition a court for an order with respect to the animal. The bill requires the contractor to notify the owner and the political subdivision when it petitions the court for an order with respect to the animal and to notify the district attorney if it is alleged that the animal was mistreated in violation of state law or was involved in animal fighting. The bill requires a political subdivision to notify a contractor with custody of an animal, in addition to the owner, when it petitions a court for an order with respect to the animal and to notify the district attorney if it is alleged that the animal was mistreated in violation of state law or was involved in animal fighting.

The bill authorizes a political subdivision or contractor that petitions the court for an order with respect to an animal to ask the court to require the owner of the animal to pay funds into the court for the costs of custody and care for the animal pending the outcome of another court proceeding. If the court requires the owner of the animal to pay funds into the court, funds must be periodically disbursed to the person with custody to cover the person's reasonable costs. If the owner does not comply with an order, the animal is treated as an unclaimed animal. The bill also authorizes a political subdivision or contractor to petition a court to release an animal to its owner pending the outcome of another court proceeding, but only if the owner is not alleged to have mistreated the animal in violation of state law or to have violated the law prohibiting animal fighting and only if other specified conditions are satisfied.

The bill generally requires the court to hold a hearing on a petition filed by a political subdivision or contractor within 10 days of the filing of the petition.

Order by criminal court

Under this bill, if there is a case charging mistreatment of an animal in violation of state law or violation of the laws relating to animal fighting and an animal allegedly involved in the violation is in custody under the civil laws described above, the defendant or the district attorney may request the criminal court to order that the animal be retained in custody for a period that is reasonable to allow the collection of evidence relating to the animal. The bill requires the criminal court to provide a copy of such an order to the person with custody of the animal and to any court in which a case is pending under the civil laws described above.

The bill requires a person with custody of an animal and any court in which a case is pending under the civil laws described above to ensure that the animal remains in custody until the end of the period specified in the criminal court's order.

The ultimate disposition of the animal after the period specified in the order is determined under the civil laws described above.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.