

SB2847



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2847

Introduced 2/17/2016, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

510 ILCS 70/3.04

Amends the Humane Care for Animals Act. Provides that if, upon seizure of the animal and the filing of charges, the person complained against refuses to relinquish an animal, the court having criminal jurisdiction over the alleged charges shall schedule a hearing on the disposition of the animal. Provides that the hearing shall be held within 30 days after the animal's seizure. Provides that at the hearing, the State's Attorney shall ask for permanent forfeiture of the companion animal seized. Provides that notice of the hearing shall be served on the impounding agency, the owner, and anyone claiming an interest in the animal. Provides that at the hearing for forfeiture prior to trial, the burden is on the prosecution to prove by a preponderance of the evidence that the person arrested violated specified provisions of the Act, the Criminal Code of 1961, or the Criminal Code of 2012. Provides that if the prosecution fails to meet this burden, the court shall order the owner to post security.

LRB099 18128 MGM 42494 b

A BILL FOR

1 AN ACT concerning animals.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Humane Care for Animals Act is amended by
5 changing Section 3.04 as follows:

6 (510 ILCS 70/3.04)

7 Sec. 3.04. Arrests and seizures; penalties.

8 (a) Any law enforcement officer making an arrest for an
9 offense involving one or more companion animals under Section
10 3.01, 3.02, or 3.03 of this Act may lawfully take possession of
11 some or all of the companion animals in the possession of the
12 person arrested. The officer, after taking possession of the
13 companion animals, must file with the court before whom the
14 complaint is made against any person so arrested an affidavit
15 stating the name of the person charged in the complaint, a
16 description of the condition of the companion animal or
17 companion animals taken, and the time and place the companion
18 animal or companion animals were taken, together with the name
19 of the person from whom the companion animal or companion
20 animals were taken and name of the person who claims to own the
21 companion animal or companion animals if different from the
22 person from whom the companion animal or companion animals were
23 seized. He or she must at the same time deliver an inventory of

1 the companion animal or companion animals taken to the court of
2 competent jurisdiction. The officer must place the companion
3 animal or companion animals in the custody of an animal control
4 or animal shelter and the agency must retain custody of the
5 companion animal or companion animals subject to an order of
6 the court adjudicating the charges on the merits and before
7 which the person complained against is required to appear for
8 trial. If the animal control or animal shelter owns no facility
9 capable of housing the companion animals, has no space to house
10 the companion animals, or is otherwise unable to house the
11 companion animals or the health or condition of the animals
12 prevents their removal, the animals shall be impounded at the
13 site of the violation pursuant to a court order authorizing the
14 impoundment, provided that the person charged is an owner of
15 the property. Employees or agents of the animal control or
16 animal shelter or law enforcement shall have the authority to
17 access the on-site impoundment property for the limited purpose
18 of providing care and veterinary treatment for the impounded
19 animals and ensuring their well-being and safety. For an
20 on-site impoundment, a petition for posting of security may be
21 filed under Section 3.05 of this Act. Disposition of the
22 animals shall be controlled by Section 3.06 of this Act. If,
23 upon seizure of the animal and the filing of charges, the
24 person complained against refuses to relinquish an animal, the
25 court having criminal jurisdiction over the alleged charges
26 shall schedule a hearing on the disposition of the animal. The

1 hearing shall be held within 30 days after the animal's
2 seizure. At the hearing, the State's Attorney shall ask for
3 permanent forfeiture of the companion animal seized. Notice of
4 the hearing shall be served on the impounding agency, the
5 owner, and anyone claiming an interest in the animal. At the
6 hearing for forfeiture prior to trial ~~The State's Attorney may,~~
7 ~~within 14 days after the seizure, file a "petition for~~
8 ~~forfeiture prior to trial" before the court having criminal~~
9 ~~jurisdiction over the alleged charges, asking for permanent~~
10 ~~forfeiture of the companion animals seized. The petition shall~~
11 ~~be filed with the court, with copies served on the impounding~~
12 ~~agency, the owner, and anyone claiming an interest in the~~
13 ~~animals. In a "petition for forfeiture prior to trial", the~~
14 burden is on the prosecution to prove by a preponderance of the
15 evidence that the person arrested violated Section 3.01, 3.02,
16 3.03, or 4.01 of this Act or Section 26-5 or 48-1 of the
17 Criminal Code of 1961 or the Criminal Code of 2012. If the
18 prosecution fails to meet this burden, the court shall order
19 the owner to post security pursuant to Section 3.05.

20 (b) An owner whose companion animal or companion animals
21 are removed by a law enforcement officer under this Section
22 must be given written notice of the circumstances of the
23 removal and of any legal remedies available to him or her. The
24 notice must be posted at the place of seizure, or delivered to
25 a person residing at the place of seizure or, if the address of
26 the owner is different from the address of the person from whom

1 the companion animal or companion animals were seized,
2 delivered by registered mail to his or her last known address.

3 (c) In addition to any other penalty provided by law, upon
4 conviction for violating Sections 3, 3.01, 3.02, or 3.03 the
5 court may order the convicted person to forfeit to an animal
6 control or animal shelter the animal or animals that are the
7 basis of the conviction. Upon an order of forfeiture, the
8 convicted person is deemed to have permanently relinquished all
9 rights to the animal or animals that are the basis of the
10 conviction. The forfeited animal or animals shall be adopted or
11 humanely euthanized. In no event may the convicted person or
12 anyone residing in his or her household be permitted to adopt
13 the forfeited animal or animals. The court, additionally, may
14 order that the convicted person and persons dwelling in the
15 same household as the convicted person who conspired, aided, or
16 abetted in the unlawful act that was the basis of the
17 conviction, or who knew or should have known of the unlawful
18 act, may not own, harbor, or have custody or control of any
19 other animals for a period of time that the court deems
20 reasonable.

21 (Source: P.A. 99-321, eff. 1-1-16.)