



Rep. Brian W. Stewart

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09900HB1847ham001

LRB099 06720 MGM 34041 a

1 AMENDMENT TO HOUSE BILL 1847

2 AMENDMENT NO. _____. Amend House Bill 1847 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Humane Care for Animals Act is amended by
5 changing Sections 3.04 and 3.05 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

1 companion animals taken, and the time and place the companion
2 animal or companion animals were taken, together with the name
3 of the person from whom the companion animal or companion
4 animals were taken and name of the person who claims to own the
5 companion animal or companion animals if different from the
6 person from whom the companion animal or companion animals were
7 seized. He or she must at the same time deliver an inventory of
8 the companion animal or companion animals taken to the court of
9 competent jurisdiction. The officer must place the companion
10 animal or companion animals in the custody of an animal control
11 or animal shelter and the agency must retain custody of the
12 companion animal or companion animals subject to an order of
13 the court adjudicating the charges on the merits and before
14 which the person complained against is required to appear for
15 trial. If, upon seizure of the animal and the filing of
16 charges, the person complained against refuses to relinquish an
17 animal, the court having criminal jurisdiction over the alleged
18 charges shall schedule a hearing on the disposition of the
19 animal. The hearing shall be held within 30 days after the
20 animal's seizure. At the hearing, the State's Attorney shall
21 ask for permanent forfeiture of the companion animal seized.
22 Notice of the hearing shall be served on the impounding agency,
23 the owner, and anyone claiming an interest in the animal. At
24 the hearing for forfeiture prior to trial, ~~The State's Attorney~~
25 ~~may, within 14 days after the seizure, file a "petition for~~
26 ~~forfeiture prior to trial" before the court having criminal~~

1 ~~jurisdiction over the alleged charges, asking for permanent~~
2 ~~forfeiture of the companion animals seized. The petition shall~~
3 ~~be filed with the court, with copies served on the impounding~~
4 ~~agency, the owner, and anyone claiming an interest in the~~
5 ~~animals. In a "petition for forfeiture prior to trial", the~~
6 burden is on the prosecution to prove by a preponderance of the
7 evidence that the person arrested violated Section 3.01, 3.02,
8 3.03, or 4.01 of this Act or Section 26-5 or 48-1 of the
9 Criminal Code of 1961 or the Criminal Code of 2012.

10 (b) An owner whose companion animal or companion animals
11 are removed by a law enforcement officer under this Section
12 must be given written notice of the circumstances of the
13 removal and of any legal remedies available to him or her. The
14 notice must be posted at the place of seizure, or delivered to
15 a person residing at the place of seizure or, if the address of
16 the owner is different from the address of the person from whom
17 the companion animal or companion animals were seized,
18 delivered by registered mail to his or her last known address.

19 (c) In addition to any other penalty provided by law, upon
20 conviction for violating Sections 3, 3.01, 3.02, or 3.03 the
21 court may order the convicted person to forfeit to an animal
22 control or animal shelter the animal or animals that are the
23 basis of the conviction. Upon an order of forfeiture, the
24 convicted person is deemed to have permanently relinquished all
25 rights to the animal or animals that are the basis of the
26 conviction. The forfeited animal or animals shall be adopted or

1 humanely euthanized. In no event may the convicted person or
2 anyone residing in his or her household be permitted to adopt
3 the forfeited animal or animals. The court, additionally, may
4 order that the convicted person and persons dwelling in the
5 same household as the convicted person who conspired, aided, or
6 abetted in the unlawful act that was the basis of the
7 conviction, or who knew or should have known of the unlawful
8 act, may not own, harbor, or have custody or control of any
9 other animals for a period of time that the court deems
10 reasonable.

11 (Source: P.A. 97-1108, eff. 1-1-13; 97-1150, eff. 1-25-13.)

12 (510 ILCS 70/3.05)

13 Sec. 3.05. Security for companion animals and animals used
14 for fighting purposes.

15 (a) In the case of companion animals as defined in Section
16 2.01a or animals used for fighting purposes in violation of
17 Section 4.01 of this Act or Section 26-5 or 48-1 of the
18 Criminal Code of 1961 or the Criminal Code of 2012, or when
19 animals are seized under subsection (a) of Section 3.04 of this
20 Act, the court shall order ~~the animal control or animal shelter~~
21 ~~having custody of the animal or animals may file a petition~~
22 ~~with the court requesting~~ that the person from whom the animal
23 or animals are seized, or the owner of the animal or animals,
24 ~~be ordered to~~ post security. The security must be in an amount
25 sufficient to secure payment of all reasonable expenses

1 expected to be incurred by the animal control or animal shelter
2 in caring for and providing for the animal or animals pending
3 the disposition of the charges. Reasonable expenses include,
4 but are not limited to, estimated medical care and boarding of
5 the animal or animals for 30 days. The amount of the security
6 shall be determined by the court after taking into
7 consideration all of the facts and circumstances of the case,
8 including, but not limited to, the recommendation of the
9 impounding organization having custody and care of the seized
10 animal or animals and the cost of caring for the animal or
11 animals. If security has been posted in accordance with this
12 Section, the animal control or animal shelter may draw from the
13 security the actual costs incurred by the agency in caring for
14 the seized animal or animals.

15 (b) The court ~~Upon receipt of a petition, the court must~~
16 ~~set a hearing on the petition, to be conducted within 5~~
17 ~~business days after the petition is filed. The petitioner~~ must
18 serve a true copy of the order ~~petition~~ upon the defendant and
19 the State's Attorney for the county in which the animal or
20 animals were seized. The court ~~petitioner~~ must also serve a
21 true copy of the petition on any interested person. For the
22 purposes of this subsection, "interested person" means an
23 individual, partnership, firm, joint stock company,
24 corporation, association, trust, estate, or other legal entity
25 that the court determines may have a pecuniary interest in the
26 animal or animals that are the subject of the petition. The

1 court must set a hearing date to determine any interested
2 parties. The court may waive for good cause shown the posting
3 of security.

4 (c) If the court orders the posting of security, the
5 security must be posted with the clerk of the court within 5
6 business days after the hearing. If the person ordered to post
7 security does not do so, the animal or animals are forfeited by
8 operation of law and the animal control or animal shelter
9 having control of the animal or animals must dispose of the
10 animal or animals through adoption or must humanely euthanize
11 the animal. In no event may the defendant or any person
12 residing in the defendant's household adopt the animal or
13 animals.

14 (d) The impounding organization may file a petition with
15 the court upon the expiration of the 30-day period requesting
16 the posting of additional security. The court may order the
17 person from whom the animal or animals were seized, or the
18 owner of the animal or animals, to post additional security
19 with the clerk of the court to secure payment of reasonable
20 expenses for an additional period of time pending a
21 determination by the court of the charges against the person
22 from whom the animal or animals were seized.

23 (e) In no event may the security prevent the impounding
24 organization having custody and care of the animal or animals
25 from disposing of the animal or animals before the expiration
26 of the 30-day period covered by the security if the court makes

1 a final determination of the charges against the person from
2 whom the animal or animals were seized. Upon the adjudication
3 of the charges, the person who posted the security is entitled
4 to a refund of the security, in whole or in part, for any
5 expenses not incurred by the impounding organization.

6 (f) Notwithstanding any other provision of this Section to
7 the contrary, the court may order a person charged with any
8 violation of this Act to provide necessary food, water,
9 shelter, and care for any animal or animals that are the basis
10 of the charge without the removal of the animal or animals from
11 their existing location and until the charges against the
12 person are adjudicated. Until a final determination of the
13 charges is made, any law enforcement officer, animal control
14 officer, Department investigator, or an approved humane
15 investigator may be authorized by an order of the court to make
16 regular visits to the place where the animal or animals are
17 being kept to ascertain if the animal or animals are receiving
18 necessary food, water, shelter, and care. Nothing in this
19 Section prevents any law enforcement officer, Department
20 investigator, or approved humane investigator from applying
21 for a warrant under this Section to seize any animal or animals
22 being held by the person charged pending the adjudication of
23 the charges if it is determined that the animal or animals are
24 not receiving the necessary food, water, shelter, or care.

25 (g) Nothing in this Act shall be construed to prevent the
26 voluntary, permanent relinquishment of any animal by its owner

1 to an animal control or animal shelter in lieu of posting
2 security or proceeding to a forfeiture hearing. Voluntary
3 relinquishment shall have no effect on the criminal charges
4 that may be pursued by the appropriate authorities.

5 (h) If an owner of a companion animal is acquitted by the
6 court of charges made pursuant to this Act, the court shall
7 further order that any security that has been posted for the
8 animal shall be returned to the owner by the impounding
9 organization.

10 (i) The provisions of this Section only pertain to
11 companion animals and animals used for fighting purposes.

12 (Source: P.A. 97-1108, eff. 1-1-13; 97-1150, eff. 1-25-13.)".