

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-0078.01 Jane Ritter

SENATE BILL 11-009

SENATE SPONSORSHIP

Steadman, Guzman

HOUSE SPONSORSHIP

Fischer, Gardner B.

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROCEDURAL REQUIREMENTS FOR PAYMENT OF COSTS**
102 **RELATED TO IMPOUNDED ANIMALS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill modifies procedural requirements related to the payment of impoundment, care, and provision costs for an animal that has been impounded because of alleged neglect or abuse or other criminal acts involving animals. The owner or custodian (owner) of the impounded animal may request a hearing, which shall be held no later than 30 days

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
February 21, 2011

after the request. Failure by the owner to pay the costs of impoundment, care, and provision shall result in the loss of any right of ownership to the animal.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 18-9-202.5 (1), Colorado Revised Statutes, is
3 amended to read:

4 **18-9-202.5. Procedural requirements - impoundment, care,
5 and provision costs for impounded animals.** (1) (a) The owner or
6 custodian of an animal that has been impounded by an impound agency
7 because of alleged neglect or abuse, or because of investigation of
8 charges of cruelty to animals pursuant to section 18-9-202, animal
9 fighting pursuant to section 18-9-204, mistreatment, neglect, or
10 abandonment under article 42 of title 35, C.R.S., or unlawful ownership
11 of a dangerous dog as described in section 18-9-204.5, may prevent
12 disposition of the animal by an impound agency by posting a bond
13 PAYMENT FOR IMPOUNDMENT, CARE, AND PROVISION COSTS with the court
14 in an amount sufficient to provide for the animal's care and provision at
15 the impound agency for at least thirty days, including the day on which
16 the animal was taken into custody. ~~The owner or custodian of any
17 impounded animal may request a hearing in a court of competent
18 jurisdiction within ten days after impoundment to determine whether the
19 costs associated with the bond are fair and reasonable for the care of and
20 provision for the impounded animal. Such bond shall be filed with the
21 court within ten days after the animal is impounded. At the end of the
22 time for which expenses are covered by the bond, if the owner or
23 custodian desires to prevent disposition of the animal, the owner or
24 custodian shall post a new bond with the court within ten days after the~~

1 ~~prior bond's expiration. However, if, in the opinion of a licensed~~
2 ~~veterinarian, the animal is experiencing extreme pain or suffering or is~~
3 ~~severely injured past recovery, severely disabled past recovery, or~~
4 ~~severely diseased past recovery, the animal may be euthanized without a~~
5 ~~court order.~~

6 (b) THE OWNER OR CUSTODIAN OF THE IMPOUNDED ANIMAL SHALL
7 FILE THE IMPOUNDMENT, CARE, AND PROVISION PAYMENT WITH THE
8 COURT WITHIN TEN DAYS AFTER THE IMPOUNDMENT. AT THE END OF THE
9 TIME FOR WHICH EXPENSES ARE COVERED BY THE INITIAL IMPOUNDMENT,
10 CARE, AND PROVISION PAYMENT, AND AFTER THE TEN-DAY PERIOD IN
11 WHICH THE OWNER OR CUSTODIAN SHALL FILE THE INITIAL PAYMENT HAS
12 ELAPSED, IF THE OWNER OR CUSTODIAN DESIRES TO PREVENT DISPOSITION
13 OF THE ANIMAL, THE OWNER OR CUSTODIAN SHALL POST AN ADDITIONAL
14 PAYMENT FOR THE IMPOUNDMENT, CARE, AND PROVISION COSTS WITH THE
15 COURT WITHIN TEN DAYS AFTER THE PRIOR PAYMENT'S EXPIRATION. At
16 the end of the time for which expenses are covered by the ~~bond~~ PAYMENT
17 FOR IMPOUNDMENT, CARE, AND PROVISION COSTS, the impound agency
18 may determine disposition of the animal unless there is a court order
19 prohibiting such disposition. HOWEVER, IF, IN THE OPINION OF A LICENSED
20 VETERINARIAN, THE ANIMAL IS EXPERIENCING EXTREME PAIN OR
21 SUFFERING OR IS SEVERELY INJURED PAST RECOVERY, SEVERELY DISABLED
22 PAST RECOVERY, OR SEVERELY DISEASED PAST RECOVERY, THE ANIMAL
23 MAY BE EUTHANIZED WITHOUT A COURT ORDER. The owner or custodian
24 shall be liable for the cost of the care of, provision for, or disposal of the
25 animal.

26 (c) WITHIN TEN DAYS AFTER THE IMPOUNDMENT, THE OWNER OR
27 CUSTODIAN OF ANY IMPOUNDED ANIMAL MAY REQUEST A HEARING IN A

1 CRIMINAL COURT OF COMPETENT JURISDICTION. IF A CONTINUANCE IS
2 REQUESTED, IT SHALL NOT EXCEED TWENTY DAYS. THE OWNER OR
3 CUSTODIAN OF THE IMPOUNDED ANIMAL SHALL PROVIDE NOTICE TO THE
4 DISTRICT ATTORNEY OF HIS OR HER REQUEST FOR A HEARING. IF THE
5 OWNER OR CUSTODIAN OF AN IMPOUNDED ANIMAL REQUESTS A HEARING,
6 THE COURT SHALL HOLD THE HEARING AT THE EARLIEST POSSIBLE TIME,
7 BUT IN NO INSTANCE SHALL THE HEARING BE HELD LATER THAN THIRTY
8 DAYS AFTER THE IMPOUNDMENT. THE GENERAL ASSEMBLY INTENDS THAT
9 THE HEARING BE HELD WITHIN TEN DAYS AFTER THE IMPOUNDMENT
10 WHENEVER POSSIBLE. AT THE HEARING, THE COURT SHALL DETERMINE,
11 AS APPROPRIATE:

12 (I) WHETHER COSTS ASSOCIATED WITH THE IMPOUNDMENT, CARE,
13 AND PROVISION ARE FAIR AND REASONABLE FOR THE CARE OF AND
14 PROVISION FOR THE IMPOUNDED ANIMAL;

15 (II) WHETHER THERE WAS SUFFICIENT PROBABLE CAUSE FOR THE
16 IMPOUNDMENT; AND

17 (III) RELEASE OF THE ANIMAL TO THE IMPOUND AGENCY FOR
18 DISPOSITION IF THE OWNER ELECTS NOT TO PAY IMPOUNDMENT, CARE, OR
19 PROVISION COSTS THAT WOULD OTHERWISE PREVENT DISPOSITION.

20 (d) FAILURE TO PAY THE IMPOUNDMENT, CARE, AND PROVISION
21 COSTS AT THE HEARING DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION
22 (1) SHALL RESULT IN THE FORFEITURE OF THE RIGHT TO CONTEST THE COST
23 OF THE IMPOUNDMENT, CARE, AND PROVISION AND ANY OWNERSHIP
24 RIGHTS TO THE ANIMAL IN QUESTION.

25 (e) PROVISION OF A WARRANT ISSUED IN ACCORDANCE WITH RULE
26 41 (b) OF THE COLORADO RULES OF CRIMINAL PROCEDURE AUTHORIZING
27 SEIZURE OF THE IMPOUNDED ANIMAL SHALL BE PRIMA FACIE EVIDENCE OF

1 SUFFICIENT CAUSE FOR IMPOUNDMENT.

2 ~~(b)~~ (f) A dog that is not claimed by its owner within five days after
3 being eligible for release from impoundment for investigation of a charge
4 of unlawful ownership of a dangerous dog as described in section
5 18-9-204.5 shall be deemed abandoned and may be disposed of as the
6 impound agency deems proper.

7 ~~(c)~~ (g) (I) With respect to the sale of an animal, the proceeds shall
8 first be applied to the costs of the sale and then to the expenses for the
9 care of and provision for the animal, including expenses incurred by the
10 impound agency THAT HAVE NOT BEEN PAID BY THE OWNER OR
11 CUSTODIAN. If the owner of the animal is convicted of cruelty to animals
12 under section 18-9-202, animal fighting under section 18-9-204, or
13 unlawful ownership of a dangerous dog under section 18-9-204.5 or is
14 found by court order to have mistreated, neglected, or abandoned the
15 animal under article 42 of title 35, C.R.S., the remaining proceeds, if any,
16 shall be paid to the impound agency. If the owner of the animal is not
17 convicted of such charges or is not found by court order to have so
18 mistreated, neglected, or abandoned the animal, the remaining proceeds,
19 if any, shall be paid over to the owner of the animal.

20 (II) If the impound agency is the department of agriculture,
21 moneys credited to the department of agriculture for expenses shall be
22 transmitted to the state treasurer and credited to the animal protection
23 fund, created in section 35-42-113, C.R.S. If the department of
24 agriculture is not the impound agency, moneys for expenses shall be paid
25 to such other impound agency as the court orders.

26 (III) If the owner of the animal cannot be found, any remaining
27 proceeds after all other expenses have been paid shall be paid into the

1 animal protection fund or, if the impound agency is not the department of
2 agriculture, to such other impound agency as the court orders. Any claim
3 for such remaining proceeds by the owner of the animal shall be made
4 within one year after the payment thereof to the impound agency and,
5 unless so presented to the court, shall be forever barred unless the court
6 by proper order made in any case otherwise decrees. Any refund ordered
7 by court decree shall be paid to the claimant by the impound agency.

8 (IV) At least six days prior to sale of the animal, the impound
9 agency shall provide written notice to the owner, at the owner's
10 last-known address, of the time and place of the sale of the animal.

11 (V) If the owner of the animal is unknown, the impound agency
12 shall cause to be published for one week, in a newspaper of general
13 circulation in the jurisdiction wherein such animal is found, notice of sale
14 of the animal, and shall further cause notice of the sale of the animal to
15 be posted at a place provided for public notices in the jurisdiction wherein
16 such sale will take place, at least five days prior to the sale.

17 (VI) The provisions of this ~~paragraph (c)~~ PARAGRAPH (g) shall not
18 apply to the disposition of an animal for a fee by:

19 (A) Adoption of an animal;

20 (B) Release of an animal to a rescue group licensed pursuant to
21 article 80 of title 35, C.R.S.;

22 (C) Release of an animal to another pet animal facility licensed
23 pursuant to article 80 of title 35, C.R.S.; or

24 ==

25 (D) Release of an animal to a rehabilitator licensed by the division
26 of wildlife or the United States fish and wildlife service.

27 **SECTION 2.** 18-9-201 (2.5), Colorado Revised Statutes, is

1 amended to read:

2 **18-9-201. Definitions.** As used in sections 18-9-201.5, 18-9-202,
3 18-9-202.5, and 18-9-204.5, unless the context otherwise requires:

4 (2.5) "Disposal" or "disposition" means adoption of an animal;
5 return of an animal to the owner; sale of an animal under section
6 18-9-202.5 ~~(f)~~(e) (1) (g); release of an animal to a rescue group licensed
7 pursuant to article 80 of title 35, C.R.S.; release of an animal to another
8 pet animal facility licensed pursuant to article 80 of title 35, C.R.S.; or
9 RELEASE OF AN ANIMAL to a rehabilitator licensed by the division of
10 wildlife or the United States fish and wildlife service; or euthanasia.

11 **SECTION 3.** 35-42-113 (1), Colorado Revised Statutes, is
12 amended to read:

13 **35-42-113. Animal protection fund - creation.** (1) There is
14 hereby created an animal protection fund. Any donations collected for
15 animal protection, any net proceeds from the sale of an animal pursuant
16 to section 18-9-202.5 ~~(f)~~(e) (1) (g), C.R.S., and any moneys from
17 restitution ordered for the expenses of the department of agriculture in
18 selling and providing for the care of and provision for ~~animals~~ AN ANIMAL
19 disposed of under the animal cruelty laws in accordance with part 2 of
20 article 9 of title 18, C.R.S., or this article shall be transmitted to the state
21 treasurer, who shall credit the same to the animal protection fund. The
22 general assembly shall make annual appropriations from such fund to the
23 department of agriculture to aid in carrying out the purposes of this
24 article. Such appropriations shall not be made for personal services.

25 **SECTION 4. Act subject to petition - effective date -**
26 **applicability.** (1) This act shall take effect September 1, 2011; except
27 that, if a referendum petition is filed pursuant to section 1 (3) of article V

1 of the state constitution against this act or an item, section, or part of this
2 act within the ninety-day period after final adjournment of the general
3 assembly, then the act, item, section, or part shall not take effect unless
4 approved by the people at the general election to be held in November
5 2012 and shall take effect on the date of the official declaration of the
6 vote thereon by the governor.

7 (2) The provisions of this act shall apply to offenses committed on
8 or after the applicable effective date of this act.