

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0211.01 Kate Meyer x4348

HOUSE BILL 12-1125

HOUSE SPONSORSHIP

Ramirez, Sonnenberg,

SENATE SPONSORSHIP

Steadman,

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

Senate Committees

Judiciary

A BILL FOR AN ACT

101 **CONCERNING PROCEDURES RELATED TO THE COSTS OF IMPOUNDED**
102 **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 the animal. Currently, the owner or custodian (owner) of the impounded animal may request a hearing to contest the reasonableness of

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.

HOUSE
3rd Reading Unamended
March 1, 2012

HOUSE
Amended 2nd Reading
February 29, 2012

those costs. The bill specifies that the owner must make that request within 10 days after the date of impoundment. Because costs associated with caring for the animal continue to accrue during the pendency of an animal's impoundment, the bill requires the hearing to be conducted in a criminal court of competent jurisdiction no later than 10 days after the request.

The bill also:

- ! For an owner requesting a hearing, delays the payment of costs until the date of the hearing;
- ! Expands the scope of the hearing to include a judicial determination as to whether probable cause existed to justify the impoundment;
- ! Describes circumstances under which a payment for impoundment, care, and provision costs must be refunded to an owner; and
- ! Clarifies that the criminal law procedures governing impoundments do not apply to matters solely brought in an administrative context.

In order to increase clarity, **section 1** of the bill also reorganizes the existing statute governing impounded animals. **Sections 2, 3, and 4** make corresponding nonsubstantive amendments to conform current law to that reorganization.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 18-9-202.5
3 as follows:

4 **18-9-202.5. Impounded animals - costs of impoundment,**
5 **provision, and care - disposition - procedures - application -**

6 **definition.** (1) (a) **(I)** The owner or custodian of an animal that has been
7 impounded by an impound agency because of alleged neglect or abuse or
8 because of investigation of charges of cruelty to animals pursuant to
9 section 18-9-202; animal fighting pursuant to section 18-9-204;
10 mistreatment, neglect, or abandonment under article 42 of title 35, C.R.S.;
11 or unlawful ownership of a dangerous dog as described in section
12 18-9-204.5, may prevent disposition of the animal by an impound agency
13 by ~~posting a bond~~ FILING A PAYMENT FOR IMPOUNDMENT, CARE, AND

1 PROVISION COSTS with the court in an amount DETERMINED BY THE
2 IMPOUND AGENCY TO BE sufficient to provide for the animal's care and
3 provision at the impound agency for at least thirty days, including the day
4 on which the animal was taken into custody.

5 (II) TO THE EXTENT PRACTICABLE, WITHIN SEVENTY-TWO HOURS
6 AFTER AN IMPOUNDMENT DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS
7 PARAGRAPH (a), UPON REQUEST FROM THE OWNER OR CUSTODIAN OF THE
8 IMPOUNDED ANIMAL, THE IMPOUND AGENCY SHALL ALLOW A LICENSED
9 VETERINARIAN OF THE OWNER'S OR CUSTODIAN'S CHOOSING AND AT HIS OR
10 HER EXPENSE TO EXAMINE THE ANIMAL AT A TIME AND PLACE SELECTED
11 BY THE IMPOUND AGENCY, WHICH EXAMINATION MAY INCLUDE TAKING
12 PHOTOGRAPHS OF THE ANIMAL AND TAKING BIOLOGICAL SAMPLES FOR THE
13 PURPOSE OF DIAGNOSTIC TESTING. == ==

14 (b) ~~The owner or custodian of any impounded animal may request~~
15 ~~a hearing in a court of competent jurisdiction within ten days after~~
16 ~~impoundment to determine whether the costs associated with the bond are~~
17 ~~fair and reasonable for the care of and provision for the impounded~~
18 ~~animal. Such bond shall be filed with the court~~ MUST FILE THE PAYMENT:

19 (I) Within ten days after the animal is impounded; OR

20 (II) IF THE OWNER OR CUSTODIAN REQUESTS A HEARING PURSUANT
21 TO SUBPARAGRAPH (I) OF PARAGRAPH (c) OF THIS SUBSECTION (1), IN
22 ACCORDANCE WITH SUBPARAGRAPH (IV) OF PARAGRAPH (c) OF THIS
23 SUBSECTION (1).

24 (c) (I) WITHIN TEN DAYS AFTER THE DATE OF IMPOUNDMENT, THE
25 OWNER OR CUSTODIAN MAY REQUEST A HEARING IN A CRIMINAL COURT OF
26 COMPETENT JURISDICTION. THE OWNER OR CUSTODIAN MUST PROVIDE
27 NOTICE TO THE DISTRICT ATTORNEY OF HIS OR HER REQUEST FOR A

1 HEARING. IF THE OWNER OR CUSTODIAN REQUESTS A HEARING, THE COURT
2 SHALL HOLD THE HEARING WITHIN TEN DAYS AFTER THE REQUEST IS MADE.

3 (II) AT THE HEARING, THE COURT SHALL DETERMINE, AS
4 APPROPRIATE:

5 (A) WHETHER COSTS ASSOCIATED WITH THE IMPOUNDMENT, CARE,
6 AND PROVISION, AS DETERMINED BY THE IMPOUND AGENCY, ARE FAIR AND
7 REASONABLE AND NECESSARY, WHICH COSTS SHALL BE SPECIFICALLY
8 ITEMIZED BY THE IMPOUND AGENCY PRIOR TO THE DATE OF THE HEARING
9 AND SHALL INCLUDE, AT A MINIMUM, AN ACCOUNTING OF THE COSTS OF
10 UPKEEP AND VETERINARY SERVICES;

11 (B) WHETHER THERE WAS SUFFICIENT PROBABLE CAUSE FOR THE
12 IMPOUNDMENT; AND

13 (C) IF THE COURT FINDS PROBABLE CAUSE FOR IMPOUNDMENT
14 EXISTED AND THE OWNER OR CUSTODIAN ELECTS NOT TO PAY THE
15 REASONABLE IMPOUNDMENT, CARE, OR PROVISION COSTS TO PREVENT
16 DISPOSITION, RELEASE OF THE ANIMAL TO THE IMPOUND AGENCY FOR
17 DISPOSITION.

18 (III) A WARRANT ISSUED IN ACCORDANCE WITH C.R.C.P. 41 (b)
19 AUTHORIZING SEIZURE OF THE IMPOUNDED ANIMAL CONSTITUTES PRIMA
20 FACIE EVIDENCE OF SUFFICIENT CAUSE FOR IMPOUNDMENT.

21 (IV) IF PROBABLE CAUSE IS FOUND AT A HEARING CONDUCTED
22 UNDER THIS PARAGRAPH (c), THE OWNER OR CUSTODIAN SHALL FILE
23 PAYMENT FOR COSTS AT THE HEARING.

24 (V) THE JUDGE PRESIDING OVER AN IMPOUNDMENT HEARING
25 CONDUCTED UNDER THIS PARAGRAPH (c) MAY, IN THE JUDGE'S
26 DISCRETION, WAIVE ALL OR A PORTION OF THE IMPOUNDMENT, CARE, AND
27 PROVISION COSTS UPON MAKING A DETERMINATION THAT THE OWNER OR

1 CUSTODIAN OF THE IMPOUNDED ANIMAL IS INDIGENT. THE JUDGE MAY
2 ALSO, IN HIS OR HER DISCRETION, MAKE ARRANGEMENTS FOR PERIODIC
3 PAYMENTS BY AN OWNER OR CUSTODIAN.

4 (d) At the end of the time for which expenses are covered by ~~the~~
5 ~~bond~~ AN INITIAL OR ANY SUBSEQUENT IMPOUNDMENT, CARE, AND
6 PROVISION PAYMENT:

7 (I) If the owner or custodian desires to prevent disposition of the
8 animal, the owner or custodian ~~shall post~~ MUST FILE a new ~~bond~~ PAYMENT
9 with the court within ten days ~~after~~ PRIOR TO the ~~prior bond's~~ PREVIOUS
10 PAYMENT'S expiration. ~~However, if, in the opinion of a licensed~~
11 ~~veterinarian, the animal is experiencing extreme pain or suffering or is~~
12 ~~severely injured past recovery, severely disabled past recovery, or~~
13 ~~severely diseased past recovery, the animal may be euthanized without a~~
14 ~~court order.~~

15 (II) ~~At the end of the time for which expenses are covered by the~~
16 ~~bond~~ IF THE OWNER OR CUSTODIAN HAS NOT TIMELY FILED AN
17 ADDITIONAL PAYMENT FOR IMPOUNDMENT, CARE, AND PROVISION COSTS,
18 the impound agency may determine disposition of the animal unless there
19 is a court order prohibiting ~~such~~ disposition. UNLESS SUBSECTION (4) OF
20 THIS SECTION APPLIES, the owner or custodian ~~shall be~~ IS liable for ~~the~~
21 ~~cost of~~ ANY ADDITIONAL COSTS FOR the care of, provision for, or disposal
22 of the animal.

23 (2) (a) FAILURE TO PAY THE IMPOUNDMENT, CARE, AND PROVISION
24 COSTS PURSUANT TO SUBSECTION (1) OF THIS SECTION RESULTS IN THE
25 FORFEITURE OF THE RIGHT TO CONTEST THOSE COSTS AND ANY OWNERSHIP
26 RIGHTS TO THE ANIMAL IN QUESTION.

27 (b) A dog that is not claimed by its owner within five days after

1 being eligible for release from impoundment for investigation of a charge
2 of unlawful ownership of a dangerous dog as described in section
3 18-9-204.5 ~~shall be~~ IS deemed abandoned and may be disposed of as the
4 impound agency deems proper.

5 (c) IF, IN THE OPINION OF A LICENSED VETERINARIAN, AN
6 IMPOUNDED ANIMAL IS EXPERIENCING EXTREME PAIN OR SUFFERING OR IS
7 SEVERELY INJURED PAST RECOVERY, SEVERELY DISABLED PAST
8 RECOVERY, OR SEVERELY DISEASED PAST RECOVERY, THE ANIMAL MAY BE
9 EUTHANIZED WITHOUT A COURT ORDER.

10 (3) THE COURT SHALL ORDER AN IMPOUND AGENCY TO REFUND TO
11 THE OWNER OR CUSTODIAN ALL IMPOUNDMENT, CARE, AND PROVISION
12 PAYMENTS MADE FOR THE ANIMAL IF, AFTER TRIAL, A JUDGE OR JURY
13 ENTERS OR RETURNS IN FAVOR OF THE OWNER OR CUSTODIAN A VERDICT
14 OF NOT GUILTY FOR ALL CHARGES RELATED TO THE ORIGINAL
15 IMPOUNDMENT OF THE ANIMAL.

16 ~~(c)-(f)~~ (4) (a) With respect to the sale of an animal, the proceeds
17 ~~shall~~ ARE first ~~be~~ applied to the costs of the sale and then to the expenses
18 for the care of and provision for the animal DURING IMPOUNDMENT AND
19 THE PENDENCY OF THE SALE, including expenses incurred by the impound
20 agency THAT HAVE NOT BEEN PAID BY THE OWNER OR CUSTODIAN. If the
21 owner of the animal is convicted of cruelty to animals under section
22 18-9-202, animal fighting under section 18-9-204, or unlawful ownership
23 of a dangerous dog under section 18-9-204.5 or is found by court order
24 to have mistreated, neglected, or abandoned the animal under article 42
25 of title 35, C.R.S., the remaining proceeds, if any, ~~shall be~~ ARE paid to the
26 impound agency. If the owner of the animal is not convicted of such
27 charges or is not found by court order to have ~~so~~ mistreated, neglected, or

1 abandoned the animal, the IMPOUND AGENCY SHALL PAY OVER THE
2 remaining proceeds, if any, ~~shall be paid over~~ to the owner of the animal.

3 ~~(H)~~ (b) If the impound agency is the department of agriculture,
4 ~~moneys credited to the department of agriculture~~ SHALL TRANSMIT THE
5 MONEYS CREDITED for expenses ~~shall be transmitted~~ to the state treasurer,
6 ~~and credited~~ WHO SHALL CREDIT THEM to the animal protection fund
7 created in section 35-42-113, C.R.S. ~~If the department of agriculture is~~
8 ~~not the impound agency, moneys for expenses shall be paid to such other~~
9 ~~impound agency as the court orders.~~

10 ~~(HH)~~ (c) If the owner of the animal cannot be found, THE COURT
11 SHALL PAY any remaining proceeds after all other expenses have been
12 paid ~~shall be paid~~ TO THE IMPOUND AGENCY into the animal protection
13 fund or, if the impound agency is not the department of agriculture, to
14 such other impound agency as the court orders. ~~Any claim for such AN~~
15 ~~OWNER CLAIMING THE remaining proceeds by the owner of the animal~~
16 ~~shall be made~~ MUST MAKE THE CLAIM within one year after the payment
17 ~~thereof~~ OF THE PROCEEDS to the impound agency. ~~and, unless~~ A CLAIM
18 NOT so presented to the court ~~shall be~~ IS forever barred unless the court,
19 by proper order made in any case, otherwise decrees. AN IMPOUND
20 AGENCY SHALL PAY TO THE CLAIMANT any refund ordered by court
21 decree. ~~shall be paid to the claimant by the impound agency.~~

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

25 ~~(V)~~ (e) If the owner of the animal is unknown, the impound
26 agency shall ~~cause to be published~~ PUBLISH for one week, in a newspaper
27 of general circulation in the jurisdiction ~~wherein such~~ IN WHICH THE

1 animal ~~is~~ WAS found, notice of sale of the animal, and shall further ~~cause~~
2 POST notice of the sale of the animal ~~to be posted~~ at a place provided for
3 public notices in the jurisdiction ~~wherein such~~ IN WHICH THE sale will take
4 place, at least five days prior to the sale.

5 ~~(VI)~~ (f) ~~The provisions of This paragraph (c) shall~~ SUBSECTION (4)
6 DOES not apply to the disposition of an animal for a fee by:

7 ~~(A)~~ (I) Adoption of an animal;

8 ~~(B)~~ (II) Release of an animal to a rescue group licensed pursuant
9 to article 80 of title 35, C.R.S.;

10 ~~(C)~~ (III) Release of an animal to another pet animal facility
11 licensed pursuant to article 80 of title 35, C.R.S.; or

12 ~~(D)~~ (IV) Release of an animal to a rehabilitator licensed by the
13 PARKS AND WILDLIFE division ~~of wildlife~~ or the United States fish and
14 wildlife service.

15 ~~(2)~~ (5) For purposes of this section, "impound agency" means ~~an~~
16 ~~agency, including, but not limited to,~~ an animal shelter as defined in
17 section 35-80-102 (1), C.R.S., ~~and~~ the department of agriculture, created
18 in section 24-1-123, C.R.S., ~~OR ANY OTHER AGENCY~~ that impounds an
19 animal pursuant to ~~the provisions of~~ PARAGRAPH (a) OF subsection (1) of
20 this section or section 18-9-202 (1.8).

21 (6) THIS SECTION DOES NOT APPLY TO ANIMALS IMPOUNDED
22 SOLELY UNDER ARTICLE 42 OF TITLE 35, C.R.S.

23 **SECTION 2.** In Colorado Revised Statutes, 18-9-201, **amend**
24 (2.5) as follows:

25 **18-9-201. Definitions.** As used in this section and sections
26 18-9-201.5, 18-9-202, 18-9-202.5, and 18-9-204.5, unless the context
27 otherwise requires:

1 (2.5) "Disposal" or "disposition" means adoption of an animal;
2 return of an animal to the owner; sale of an animal under section
3 18-9-202.5 ~~(1)~~ ~~(c)~~ (4); release of an animal to a rescue group licensed
4 pursuant to article 80 of title 35, C.R.S.; release of an animal to another
5 pet animal facility licensed pursuant to article 80 of title 35, C.R.S.; or
6 RELEASE OF AN ANIMAL to a rehabilitator licensed by the ~~division of~~
7 PARKS AND wildlife DIVISION or the United States fish and wildlife
8 service; or euthanasia.

9 **SECTION 3.** In Colorado Revised Statutes, 18-9-204.5, **amend**
10 (4) as follows:

11 **18-9-204.5. Unlawful ownership of dangerous dog - legislative**
12 **declaration - definitions.** (4) Upon taking an owner into custody for an
13 alleged violation of this section or the issuing of a summons and
14 complaint to the owner, pursuant to the Colorado rules of criminal
15 procedure and part 1 of article 4 of title 16, C.R.S., the owner's dangerous
16 dog may be taken into custody and placed in a public animal shelter, at
17 the owner's expense, pending final disposition of the charge against the
18 owner. In addition, in the event the court, pursuant to the Colorado rules
19 of criminal procedure and part 1 of article 4 of title 16, C.R.S., sets bail
20 for an owner's release from custody pending final disposition, the court
21 may require, as a condition of bond, that the owner's dangerous dog be
22 placed by an impound agency, as defined in section 18-9-202.5 ~~(2)~~ (5), at
23 the owner's expense in a location selected by the impound agency
24 including a public animal shelter, licensed boarding facility, or
25 veterinarian's clinic, pending final disposition of the alleged violation of
26 this section. The owner ~~shall be~~ IS liable for the total cost of board and
27 care for a dog placed pursuant to this subsection (4).

1 **SECTION 4.** In Colorado Revised Statutes, 35-42-113, **amend**
2 (1) as follows:

3 **35-42-113. Animal protection fund - creation.** (1) There is
4 hereby created an animal protection fund. Any donations collected for
5 animal protection, any net proceeds from the sale of an animal pursuant
6 to section 18-9-202.5 ~~(1)(c)~~ (4), C.R.S., and any moneys from restitution
7 ordered for the expenses of the department of agriculture in selling and
8 providing for the care of and provision for ~~animals~~ AN ANIMAL disposed
9 of under the animal cruelty laws in accordance with part 2 of article 9 of
10 title 18, C.R.S., or this article shall be transmitted to the state treasurer,
11 who shall credit the ~~same~~ MONEYS to the animal protection fund. The
12 general assembly shall make annual appropriations from ~~such~~ THAT fund
13 to the department of agriculture to aid in carrying out the purposes of this
14 article; EXCEPT THAT NO such appropriations ~~shall not~~ MAY be made for
15 personal services.

16 **SECTION 5. Act subject to petition - effective date -**
17 **applicability.** (1) This act takes effect September 1, 2012; except that,
18 if a referendum petition is filed pursuant to section 1 (3) of article V of
19 the state constitution against this act or an item, section, or part of this act
20 within the ninety-day period after final adjournment of the general
21 assembly, then the act, item, section, or part will not take effect unless
22 approved by the people at the general election to be held in November
23 2012 and, in such case, will take effect on the date of the official
24 declaration of the vote thereon by the governor.

25 (2) The provisions of this act apply to animals impounded on or
26 after the applicable effective date of this act.