



Jill Rowland

Bill Analysis
Legislative Service Commission

H.B. 71

127th General Assembly
(As Introduced)

Reps. White, J. McGregor, Setzer, Brown, J. Hagan, Seitz, Wagoner, Wolpert

BILL SUMMARY

- Makes certain procedures governing the impoundment of allegedly abused or neglected companion animals applicable to the confiscation of dogs under the statute prohibiting dogfighting.
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CONTENT AND OPERATION

Current law

Dogfighting

Current law prohibits a person from committing the offense of dogfighting, which includes knowingly doing any of the following: (1) promoting, engaging in, or being employed at dogfighting, (2) receiving money for the admission of another person to a place kept for dogfighting, (3) selling, purchasing, possessing, or training a dog for dogfighting, (4) using, training, or possessing a dog for seizing, detaining, or maltreating a domestic animal, (5) purchasing a ticket of admission to or being present at a dogfight, or (6) witnessing a dogfight if it is presented as a public spectacle (sec. 959.16(A)). A peace officer may confiscate any dogs that have been, are, or are intended to be used in the offense of dogfighting (sec. 959.16(C)).

Procedures for impoundment of companion animal

In addition, current law establishes procedures for the impoundment of a companion animal¹ that allegedly has been abused or neglected in violation of certain provisions regarding companion animals and for the care of the impounded companion animal during the pendency of the charges against the defendant who

¹ "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept (sec. 959.131(A)(1), not in the bill).

allegedly violated those provisions (sec. 959.132, not in the bill). As part of the procedures, the owner, custodian, or caretaker of the impounded companion animal may request a probable cause hearing regarding his guilt (sec. 959.132(D), not in the bill).

If the court finds at the conclusion of the hearing that probable cause does not exist for finding that the defendant committed a violation of a prohibition governing companion animals and that he otherwise has a right to possess the companion animal, the court must order the animal returned to the defendant. If the court finds that probable cause exists for finding the defendant guilty of a violation, it must either allow the impounding agency to retain custody of the companion animal pending resolution of the underlying charges or order it to be returned to the defendant under conditions and restrictions designed to ensure that the companion animal receives humane and adequate care and treatment. (Sec. 959.132(D), not in the bill.)

The impounding agency² may file a motion requesting the court to require the defendant to post a deposit to cover the costs of caring for impounded companion animals if the reasonably necessary projected costs of the care that will be provided prior to the final resolution of the charges are estimated to be in excess of \$1,500. If a probable cause hearing results in a finding that probable cause exists for finding that the defendant committed a violation of a prohibition governing companion animals, the court must hold a costs of care hearing regarding the motion. If the court finds that the reasonably necessary projected costs of caring for the companion animals exceed \$1,500 during the pendency of the charges, the court may grant the impounding agency's motion, thus requiring the defendant to post the deposit with the clerk of court, or alternatively the court may order other specified actions. If the defendant fails to post the deposit as required or otherwise fails to comply with the court's order, the court may order the defendant to forfeit the right of possession and ownership in one or more of the companion animals to the impounding agency. (Sec. 959.132(E), not in the bill.)

If the defendant subsequently is found guilty of abusing or neglecting a companion animal and he posted a deposit to cover the costs of care for the animal, the court must determine the amount of reasonably necessary costs that the impounding agency incurred in caring for the companion animal during the pendency of the charges. The court must order the clerk of court to pay that

² "Impounding agency" means the county humane society, animal shelter, or law enforcement agency that either has impounded a companion animal or has made regular visits to the place where a companion animal is kept to determine whether it is provided with necessities (sec. 959.132(A)(3), not in the bill).

amount of the deposit to the impounding agency and to dispose of any excess amount as specified in the statute. (Sec. 959.132(F), not in the bill.)

If the defendant is found not guilty of abusing or neglecting a companion animal, the court must order the clerk of court to return the entire amount of the deposit to the defendant. In addition, either the companion animal must be returned to the defendant or, if that is not possible, the court must order the impounding agency to pay the defendant the reasonable market value of the animal at the time of impoundment plus interest. (Sec. 959.132(F), not in the bill.)

An impounding agency that impounds a companion animal must pay a person who provides veterinary care to the companion animal during the impoundment for the cost of the veterinary care. That requirement applies regardless of whether the impounding agency is reimbursed for the payment. (Sec. 959.132(G), not in the bill.)

The bill

The bill applies all of the above procedures for the impoundment of an abused or neglected companion animal to dogs that have been confiscated because they have been, are, or are intended to be used in dogfighting and to the owners, custodians, and caretakers of such dogs. The bill also specifies that for purposes of that application, references in the procedures to the offense of abuse or neglect of a companion animal must be deemed to include references to the offense of dogfighting. (Sec. 959.16(D).)

HISTORY

ACTION	DATE
Introduced	02-27-07

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