



Rep. Ryan Spain

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10000HB2810ham002

LRB100 10495 SLF 25441 a

1 AMENDMENT TO HOUSE BILL 2810

2 AMENDMENT NO. _____. Amend House Bill 2810, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Humane Care for Animals Act is amended by
6 changing Sections 3.04, 3.05, and 4 as follows:

7 (510 ILCS 70/3.04)

8 Sec. 3.04. Arrests and seizures; penalties.

9 (a) Any law enforcement officer making an arrest for an
10 offense involving one or more companion animals under Section
11 3.01, 3.02, ~~or~~ 3.03, 4.01, or 7.1 of this Act may lawfully take
12 possession of some or all of the companion animals in the
13 possession of the person arrested. The officer, after taking
14 possession of the companion animals, must file with the court
15 before whom the complaint is made against any person so
16 arrested an affidavit stating the name of the person charged in

1 the complaint, a description of the condition of the companion
2 animal or companion animals taken, and the time and place the
3 companion animal or companion animals were taken, together with
4 the name of the person from whom the companion animal or
5 companion animals were taken and name of the person who claims
6 to own the companion animal or companion animals if different
7 from the person from whom the companion animal or companion
8 animals were seized. He or she must at the same time deliver an
9 inventory of the companion animal or companion animals taken to
10 the court of competent jurisdiction. The officer must place the
11 companion animal or companion animals in the custody of an
12 animal control or animal shelter and the agency must retain
13 custody of the companion animal or companion animals subject to
14 an order of the court adjudicating the charges on the merits
15 and before which the person complained against is required to
16 appear for trial. If the animal control or animal shelter owns
17 no facility capable of housing the companion animals, has no
18 space to house the companion animals, or is otherwise unable to
19 house the companion animals or the health or condition of the
20 animals prevents their removal, the animals shall be impounded
21 at the site of the violation pursuant to a court order
22 authorizing the impoundment, provided that the person charged
23 is an owner of the property. Employees or agents of the animal
24 control or animal shelter or law enforcement shall have the
25 authority to access the on-site impoundment property for the
26 limited purpose of providing care and veterinary treatment for

1 the impounded animals and ensuring their well-being and safety.
2 Upon ~~For an on-site~~ impoundment, a petition for posting of
3 security may be filed under Section 3.05 of this Act.
4 Disposition of the animals shall be controlled by Section 3.06
5 of this Act. The State's Attorney may, within 14 days after the
6 seizure, file a "petition for forfeiture prior to trial" before
7 the court having criminal jurisdiction over the alleged
8 charges, asking for permanent forfeiture of the companion
9 animals seized. The petition shall be filed with the court,
10 with copies served on the impounding agency, the owner, and
11 anyone claiming an interest in the animals. In a "petition for
12 forfeiture prior to trial", the burden is on the prosecution to
13 prove by a preponderance of the evidence that the person
14 arrested violated Section 3.01, 3.02, 3.03, ~~or~~ 4.01, or 7.1 of
15 this Act or Section 26-5 or 48-1 of the Criminal Code of 1961
16 or the Criminal Code of 2012.

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

1 (c) In addition to any other penalty provided by law, upon
2 conviction for violating Sections 3, 3.01, 3.02, ~~or 3.03~~, 4.01,
3 or 7.1 of this Act or Section 26-5 or 48-1 of the Criminal Code
4 of 1961 or the Criminal Code of 2012, the court may order the
5 convicted person to forfeit to an animal control or animal
6 shelter the animal or animals that are the basis of the
7 conviction. Upon an order of forfeiture, the convicted person
8 is deemed to have permanently relinquished all rights to the
9 animal or animals that are the basis of the conviction, if not
10 already. 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 or otherwise possess the forfeited animal or animals. The
14 court, additionally, may order that the convicted person and
15 persons dwelling in the same household as the convicted person
16 who conspired, aided, or abetted in the unlawful act that was
17 the basis of the conviction, or who knew or should have known
18 of the unlawful act, may not own, harbor, or have custody or
19 control of any other animals for a period of time that the
20 court deems reasonable.

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

22 (510 ILCS 70/3.05)

23 Sec. 3.05. Security for companion animals and animals used
24 for fighting purposes.

25 (a) In the case of companion animals as defined in Section

1 2.01a or animals used for fighting purposes in violation of
2 Section 4.01 of this Act or Section 26-5 or 48-1 of the
3 Criminal Code of 1961 or the Criminal Code of 2012 or a
4 violation of 3.01, 3.02, 3.03, or 7.1 of this Act, the animal
5 control or animal shelter having custody of the animal or
6 animals may file a petition with the court requesting that the
7 person from whom the animal or animals are seized, or the owner
8 of the animal or animals, be ordered to post security. The
9 security must be in an amount sufficient to secure payment of
10 all reasonable expenses expected to be incurred by the animal
11 control or animal shelter in caring for and providing for the
12 animal or animals pending the disposition of the charges.
13 Reasonable expenses include, but are not limited to, estimated
14 medical care and boarding of the animal or animals for 30 days.
15 The amount of the security shall be determined by the court
16 after taking into consideration all of the facts and
17 circumstances of the case, including, but not limited to, the
18 recommendation of the impounding organization having custody
19 and care of the seized animal or animals and the cost of caring
20 for the animal or animals. If security has been posted in
21 accordance with this Section, the animal control or animal
22 shelter may draw from the security the actual costs incurred by
23 the agency in caring for the seized animal or animals.

24 (b) Upon receipt of a petition, the court must set a
25 hearing on the petition, to be conducted within 5 business days
26 after the petition is filed. The petitioner must serve a true

1 copy of the petition upon the defendant and the State's
2 Attorney for the county in which the animal or animals were
3 seized. The petitioner must also serve a true copy of the
4 petition on any interested person. For the purposes of this
5 subsection, "interested person" means an individual,
6 partnership, firm, joint stock company, corporation,
7 association, trust, estate, or other legal entity that the
8 court determines may have a pecuniary interest in the animal or
9 animals that are the subject of the petition. The court must
10 set a hearing date to determine any interested parties. The
11 court may waive for good cause shown the posting of security.

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

22 (d) The impounding organization may file a petition with
23 the court upon the expiration of the 30-day period requesting
24 the posting of additional security. The court may order the
25 person from whom the animal or animals were seized, or the
26 owner of the animal or animals, to post additional security

1 with the clerk of the court to secure payment of reasonable
2 expenses for an additional period of time pending a
3 determination by the court of the charges against the person
4 from whom the animal or animals were seized.

5 (e) In no event may the security prevent the impounding
6 organization having custody and care of the animal or animals
7 from disposing of the animal or animals before the expiration
8 of the 30-day period covered by the security if the court makes
9 a final determination of the charges against the person from
10 whom the animal or animals were seized. Upon the adjudication
11 of the charges, the person who posted the security is entitled
12 to a refund of the security, in whole or in part, for any
13 expenses not incurred by the impounding organization.

14 (f) Notwithstanding any other provision of this Section to
15 the contrary, the court may order a person charged with any
16 violation of this Act to provide necessary food, water,
17 shelter, and care for any animal or animals that are the basis
18 of the charge without the removal of the animal or animals from
19 their existing location and until the charges against the
20 person are adjudicated. Until a final determination of the
21 charges is made, any law enforcement officer, animal control
22 officer, Department investigator, or an approved humane
23 investigator may be authorized by an order of the court to make
24 regular visits to the place where the animal or animals are
25 being kept to ascertain if the animal or animals are receiving
26 necessary food, water, shelter, and care. Nothing in this

1 Section prevents any law enforcement officer, Department
2 investigator, or approved humane investigator from applying
3 for a warrant under this Section to seize any animal or animals
4 being held by the person charged pending the adjudication of
5 the charges if it is determined that the animal or animals are
6 not receiving the necessary food, water, shelter, or care.

7 (g) Nothing in this Act shall be construed to prevent the
8 voluntary, permanent relinquishment of any animal by its owner
9 to an animal control or animal shelter in lieu of posting
10 security or proceeding to a forfeiture hearing. Voluntary
11 relinquishment shall have no effect on the criminal charges
12 that may be pursued by the appropriate authorities.

13 (h) If an owner of a companion animal is acquitted by the
14 court of charges made pursuant to this Act, the court shall
15 further order that any security that has been posted for the
16 animal shall be returned to the owner by the impounding
17 organization.

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

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

21 (510 ILCS 70/4) (from Ch. 8, par. 704)

22 Sec. 4. Prohibited acts. No person may sell, offer for
23 sale, barter, or give away as a pet or a novelty any rabbit or
24 any baby chick, duckling or other fowl which has been dyed,
25 colored, or otherwise treated to impart an artificial color

1 thereto. Baby chicks or ducklings shall not be sold, offered
2 for sale, bartered, or given away as pets or novelties.
3 Rabbits, ducklings or baby chicks shall not be awarded as
4 prizes.

5 No person may allow for the adoption, transfer, sale, offer
6 for sale, barter, or give away as a pet a dog or cat forfeited
7 or relinquished under Section 3.04 or 3.05 of this Act to the
8 person who forfeited the animal or a person residing in that
9 person's household.

10 A person convicted of violating this Section is guilty of a
11 Class B misdemeanor. A second or subsequent violation is a
12 Class 4 felony, with every day that a violation continues
13 constituting a separate offense.

14 (Source: P.A. 92-650, eff. 7-11-02.)".