

HB3381



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3381

by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

510 ILCS 70/3.04

Amends the Humane Care for Animals Act. Provides that in addition to any other penalty, the court shall order that a person and persons dwelling in the same household may not own, harbor, or have custody or control of any other animal if the person has been convicted of 2 or more of the following offenses: (1) a violation of aggravated cruelty; (2) a violation of animals for entertainment; or (3) a violation of dog fighting.

LRB101 08966 SLF 54057 b

A BILL FOR

1 AN ACT concerning animals.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Humane Care for Animals Act is amended by
5 changing Section 3.04 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, 3.03, 4.01, or 7.1 of this Act may lawfully take
11 possession of some or all of the companion animals in the
12 possession of the person arrested. The officer, after taking
13 possession of the companion animals, must file with the court
14 before whom the complaint is made against any person so
15 arrested an affidavit stating the name of the person charged in
16 the complaint, a description of the condition of the companion
17 animal or companion animals taken, and the time and place the
18 companion animal or companion animals were taken, together with
19 the name of the person from whom the companion animal or
20 companion animals were taken and name of the person who claims
21 to own the companion animal or companion animals if different
22 from the person from whom the companion animal or companion
23 animals were seized. He or she must at the same time deliver an

1 inventory of the companion animal or companion animals taken to
2 the court of competent jurisdiction. The officer must place the
3 companion animal or companion animals in the custody of an
4 animal control or animal shelter and the agency must retain
5 custody of the companion animal or companion animals subject to
6 an order of the court adjudicating the charges on the merits
7 and before which the person complained against is required to
8 appear for trial. If the animal control or animal shelter owns
9 no facility capable of housing the companion animals, has no
10 space to house the companion animals, or is otherwise unable to
11 house the companion animals or the health or condition of the
12 animals prevents their removal, the animals shall be impounded
13 at the site of the violation pursuant to a court order
14 authorizing the impoundment, provided that the person charged
15 is an owner of the property. Employees or agents of the animal
16 control or animal shelter or law enforcement shall have the
17 authority to access the on-site impoundment property for the
18 limited purpose of providing care and veterinary treatment for
19 the impounded animals and ensuring their well-being and safety.
20 Upon impoundment, a petition for posting of security may be
21 filed under Section 3.05 of this Act. Disposition of the
22 animals shall be controlled by Section 3.06 of this Act. The
23 State's Attorney may, within 14 days after the seizure, file a
24 "petition for forfeiture prior to trial" before the court
25 having criminal jurisdiction over the alleged charges, asking
26 for permanent forfeiture of the companion animals seized. The

1 petition shall be filed with the court, with copies served on
2 the impounding agency, the owner, and anyone claiming an
3 interest in the animals. In a "petition for forfeiture prior to
4 trial", the burden is on the prosecution to prove by a
5 preponderance of the evidence that the person arrested violated
6 Section 3.01, 3.02, 3.03, 4.01, or 7.1 of this Act or Section
7 26-5 or 48-1 of the Criminal Code of 1961 or the Criminal Code
8 of 2012.

9 (b) An owner whose companion animal or companion animals
10 are removed by a law enforcement officer under this Section
11 must be given written notice of the circumstances of the
12 removal and of any legal remedies available to him or her. The
13 notice must be delivered in person, posted at the place of
14 seizure, or delivered to a person residing at the place of
15 seizure or, if the address of the owner is different from the
16 address of the person from whom the companion animal or
17 companion animals were seized, delivered by registered mail to
18 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, 3.03, 4.01, or
21 7.1 of this Act or Section 26-5 or 48-1 of the Criminal Code of
22 1961 or the Criminal Code of 2012, the court may order the
23 convicted person to forfeit to an animal control or animal
24 shelter the animal or animals that are the basis of the
25 conviction. Upon an order of forfeiture, the convicted person
26 is deemed to have permanently relinquished all rights to the

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

13 (d) In addition to any other penalty, the court shall order
14 that a person and persons dwelling in the same household may
15 not own, harbor, or have custody or control of any other animal
16 if the person has been convicted of 2 or more of the following
17 offenses:

18 (1) a violation of Section 3.02;

19 (2) a violation of Section 4.01; or

20 (3) a violation of Section 48-1 of the Criminal Code of
21 2012.

22 (Source: P.A. 99-321, eff. 1-1-16; 100-504, eff. 6-1-18.)