

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Update the Criminal Animal Welfare Laws

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17 MRSA §1021, sub-§3, as amended by PL 2007, c. 702, §42, is further amended to read:

3. Full hearing. A full hearing must be held within 31 days of application for authorization under subsection 1. The court shall take notice that the evidence in a matter under this subsection is a living animal requiring proper care and nourishment and shall advance the matter on the docket and give the matter priority over other cases when the court determines that the interests of justice so require. In the event of a postponement of the original hearing date, the court shall reschedule the matter for full hearing no more than 14 days later than the original hearing date. It is the owner's responsibility at the hearing to show cause why the animal should not be seized permanently or disposed of humanely. If it appears at the hearing that the animal has been cruelly abandoned or cruelly treated by its owner or the animal is maimed, disabled, diseased, dehydrated, malnourished or injured, the court shall:

- A. Direct Declare the animal forfeited and direct the applicant or other suitable person to take possession of and provide for the animal, or order its sale, adoption or placement;
- B. Order the animal to be disposed of humanely if a veterinarian determines that, given reasonable time and care, the animal's recovery is doubtful or that the animal is diseased or disabled beyond recovery; or
- C. If appropriate, allow the animal to be returned to its owner.

All veterinary records, seizure reports prepared by a humane agent, a state veterinarian or a person authorized to make arrests, police reports, witness statements and other written documents are admissible as evidence when the authors of these documents are available for cross-examination at a hearing. An oral statement of a witness included in a police report is admissible only if the witness is present. After hearing, the court shall issue a writ of possession, order the disposition of the animal or return the animal to its owner, in which case the animal must be returned within 30 days of the seizure.

Sec. 2. 17 MRSA §1021, sub-§3-A is enacted to read:

3-A. Emergency euthanasia. If an animal in possession of a humane agent, state veterinarian, sheriff, deputy sheriff, constable, police officer, animal control officer, person authorized to make arrests or the commissioner is in a condition that could cause the animal to suffer while in custody or if the animal is severely sick or severely injured and there is no possibility of recovery, the animal may be euthanized. The custodian of the animal shall submit in writing to the district attorney in the prosecutorial district where the animal is located a written report including a statement from a veterinarian stating the

condition of the animal and how continued care could cause greater harm or damage to the animal. An animal euthanized under this subsection must receive a full necropsy to detail the condition of the animal and confirm the veterinarian's diagnosis.

Sec. 3. 17 MRSA §1021, sub-§5, ¶A, as corrected by RR 2013, c. 2, §30, is amended to read:

A. Whenever a humane agent, a state veterinarian or a person authorized to make arrests has reason to believe that an animal may be disabled, diseased, dehydrated or malnourished, the humane agent, state veterinarian or person shall apply to the District Court or Superior Court for authorization to take possession of the animal and turn it over to the applicant or other suitable person for examination and observation for a 30-day period. At the end of 30 days, the court must receive a report from the person in possession of the animal and either dissolve the possession order or set the matter for hearing within ~~30~~31 days under subsection 3.

Sec. 4. 17 MRSA §1021, sub-§5-A, as amended by PL 2011, c. 559, Pt. A, §16, is further amended to read:

5-A. Seizure by humane agent, state veterinarian or person authorized to make arrests without court order. A ~~state humane agent or a~~ state humane agent or a state veterinarian or person authorized to make arrests who has reasonable cause to believe that a violation of section 1031 or 1032 has taken place or is taking place may take possession of and retain the cruelly treated animal. Upon taking possession of an animal under this section, the humane agent or the state veterinarian shall present the owner with a notice that:

A. States the reason for seizure;

B. Gives the name, address and phone number of the humane agent ~~or~~ or the state veterinarian or the person authorized to make arrests to contact for information regarding the animal; and

C. Advises the owner of the ensuing court procedure.

If the owner can not be found, the humane agent ~~or~~ or the state veterinarian or the person authorized to make arrests shall send a copy of the notice to the owner at the owner's last known address by certified mail, return receipt requested. If the owner is not known or can not be located, the humane agent ~~or~~ or the state veterinarian or the person authorized to make arrests shall contact the animal shelter or shelters used by the municipality in which the animal was found. The humane agent ~~or~~ or the state veterinarian or the person authorized to make arrests shall provide the shelter with a description of the animal, the date of seizure and the name of a person to contact for more information.

Within 3 working days of possession of the animal, the humane agent ~~or~~ or the state veterinarian or the person authorized to make arrests shall apply to the court for a possession order under subsection 3. ~~Upon~~Notwithstanding the provisions of subsection 3, upon good cause shown, the court shall expedite the case and schedule a prehearing conference to take place within 7 days of the seizure. The court shall set a hearing date, and the hearing may be advanced on the docket and receive priority over other cases when

the court determines that the interests of justice so require. The humane agent ~~or~~, the state veterinarian or the person authorized to make arrests shall arrange care for the animal, including medical treatment, if necessary, pending the hearing.

The humane agent ~~or~~, the state veterinarian or the person authorized to make arrests shall notify the owner, if located, of the time and place of the hearing. If the owner has not been located, the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found stating the case and circumstances and giving 48 hours notice of the hearing.

~~It is the owner's responsibility at the hearing to show cause why the animal should not be seized permanently or disposed of humanely. If it appears at the hearing that the animal has been abandoned or cruelly treated by its owner, the court shall declare the animal forfeited and order its sale, adoption or donation or order the animal to be disposed of humanely if a veterinarian determines that the animal is diseased or disabled beyond recovery. In the case of an expedited hearing, the court shall issue a writ of possession or return the animal to its owner within 30 days of the seizure.~~

~~For an expedited hearing, the State, prior to the prehearing conference, shall submit all veterinary records, reports by investigating officers and other relevant records in the State's possession to the court and shall mail or deliver copies of these same reports and records to the owner of the animal.~~

~~All veterinary records, seizure reports prepared by humane agents, police reports, witness statements or other written documents are admissible as evidence when the authors of these documents are available for cross-examination at a possession hearing. Oral statements of a witness included in a police report are only admissible if the witness is present at the possession hearing.~~

Sec. 5. 17 MRSA §1021, sub-§5-B is enacted to read:

5-B. Temporary possession ban. An owner or keeper of an animal that was lawfully seized or impounded pursuant to this section or section 1034 is prohibited from possessing or acquiring an animal prior to any hearing to determine possession of the animal that was lawfully seized or impounded. Notice of the prohibition under this subsection must be served to the owner or keeper subject to the prohibition. An owner or keeper who violates the prohibition under this subsection commits a civil violation for which a fine of not less than \$50 and not more than \$200 may be adjudged for each day of violation.

Sec. 6. 17 MRSA §1022, as amended by PL 1997, c. 690, §65, is further amended to read:

§ 1022. Prevention of cruelty

The commissioner, a humane agent, a state veterinarian or any person authorized to make arrests may lawfully interfere to prevent the perpetration of any act of cruelty upon an animal in that person's presence.

Sec. 7. 17 MRSA §1027, sub-§1, ¶A, as enacted by PL 2007, c. 439, §36, is amended to read:

A. "Authority" means the commissioner or a state veterinarian, humane agent, sheriff, deputy sheriff, constable, police officer, person authorized to make arrests or animal control officer that seizes or impounds an animal pursuant to section 1021.

Sec. 8. 17 MRSA §1027, sub-§2, as amended by PL 2011, c. 559, Pt. A, §17, is repealed.

Sec. 9. 17 MRSA §1027, sub-§2-A is enacted to read:

2-A. Appeal of action or order. When an animal is lawfully seized or impounded pursuant to section 1021 or 1034, if the owner, custodian or person claiming an interest in the animal wishes to contest the order, the owner, custodian or person claiming an interest may appeal the action or order to the Superior Court pursuant to the Maine Rules of Civil Procedure.

Sec. 10. 17 MRSA §1031, sub-§1, ¶D, as amended by PL 2003, c. 452, Pt. I, §13 and affected by Pt. X, §2, is further amended to read:

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs to an animal with an intent to harm the animal; intentionally gives poison or alcohol or a scheduled drug under Title 17-A, chapter 45 to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal. Violation of this paragraph is a Class D crime;

Sec. 11. 17 MRSA §1031, sub-§3-B, ¶B, as enacted by PL 2003, c. 452, Pt. I, §20 and affected by Pt. X, §2, is amended to read:

B. The court, as part of the sentence for a violation of this section, may prohibit the defendant from owning, possessing or having on the defendant's premises an animal or animals as determined by the court for a period of time, up to and including permanent relinquishment, as determined by the court. A person placed on probation for a violation of this section with a condition that prohibits owning, possessing or having an animal or animals on the probationer's premises is subject to revocation of probation and removal of the animal or animals at the probationer's expense if this condition is violated. The court as part of the sentence may order, as a condition of probation, that the defendant be evaluated to determine the need for psychiatric or psychological counseling and, if it is determined appropriate by the court, to receive psychiatric or psychological counseling at the defendant's expense. Along with any other penalty or provision of law, a person who violates an order under this paragraph commits a Class D crime.

SUMMARY

This bill amends the criminal animal welfare laws in the following ways. It:

1. Consolidates and clarifies the provisions for a possession hearing concerning an animal suspected to have been subject to cruelty, including removing the provisions for a show cause hearing;
2. Provides for emergency euthanasia of an impounded animal that is severely sick or severely injured;

3. Clarifies that a person authorized to make arrests may seize and take possession of a cruelly treated animal;
4. Prohibits an owner or keeper of an animal that has been seized or impounded due to cruel treatment from possessing or acquiring an animal prior to the possession hearing;
5. Clarifies that an owner or keeper subject to forfeiture of an animal may appeal to the Superior Court;
6. Adds to the definition of animal cruelty intentionally giving an animal a scheduled drug; and
7. Makes the violation of a sentencing provision for a conviction of animal cruelty a Class D crime.