

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1672

By: Nations

AS INTRODUCED

An Act relating to crimes and punishments; requiring report of animal or livestock abuse to local law enforcement agency or State Department of Agriculture within certain time; requiring certain information in report; providing immunity from civil liability; providing purpose for removal or care of animals, herptile, or fowl; authorizing certain officers to determine custody specifications and custody orders; providing guidelines for custody hearings; amending 21 O.S. 2001, Sections 1685, as amended by Section 1, Chapter 363, O.S.L. 2003 and 1686 (21 O.S. Supp. 2004, Section 1685), which relate to cruelty to animals and abandoned animals; establishing bond procedures for custody and care of abused and abandoned animals; authorizing certain entities to petition for bond hearing; establishing bond hearing requirements; providing for immediate forfeiture under certain circumstance; providing exception upon posting of security bond; clarifying term; requiring placement of bond with certain entity; requiring accounting of expenses; providing for subsequent bond hearings; allowing forfeiture of animal under certain circumstance; providing for the return of unused funds; declaring certain funds to be nonrefundable; providing for euthanasia; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1680.3 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. A veterinarian shall report in writing concerning any dog fighting or animal abuse to a local law enforcement agency in the county where the veterinarian is practicing within thirty (30) days of any examination or treatment administered to any dog or any animal which the veterinarian reasonably suspects and believes has participated in an organized dog fight or any animal which the

veterinarian reasonably suspects and believes has been abused. The report shall contain the breed and description of the dog or animal together with the name and address of the owner.

B. A veterinarian shall report, in writing, suspected cases of abuse of livestock to an authorized agent of the State Department of Agriculture. The report shall be made within thirty (30) days of treatment or examination and shall include the breed and description of the animal together with the name and address of the owner.

C. A veterinarian who files a report as provided in this section shall be immune from civil liability with respect to any report made in good faith.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1680.4 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. The purpose of this section is to provide a means by which an animal, herptile, or fowl can:

1. Be removed from its present custody; or

2. Be made the subject of an order issued to the owner by the appropriate court to provide care by the owner or by another person at a location approved by the court, with the order setting forth the conditions under which the animal, herptile, or fowl will be housed and cared for, given protection, or a humane disposition.

B. Any peace officer or animal control officer may:

1. Specify terms and conditions by which the owner or keeper may maintain custody of the animal, herptile, or fowl at the expense of the owner. The specifications shall be counter-signed by the owner or keeper of the animal, herptile, or fowl. Provided, however, that violation of the custody agreement of the animal, herptile, or fowl may result in the impoundment of the animal, herptile, or fowl; or

2. Obtain a court order to take custody of any animal, herptile, or fowl found neglected or cruelly treated by removing the animal, herptile, or fowl from its present location.

C. The peace officer or animal control officer shall petition the court for a custody hearing to be held within thirty (30) days after the date of seizure of the animal, herptile, or fowl to determine whether the owner, if known, is able to provide adequately for the animal, herptile, or fowl and is fit to have custody of the animal, herptile, or fowl. The court order shall be entered within fifteen (15) days after the date the hearing is completed.

SECTION 3. AMENDATORY 21 O.S. 2001, Section 1685, as amended by Section 1, Chapter 363, O.S.L. 2003 (21 O.S. Supp. 2004, Section 1685), is amended to read as follows:

Section 1685. A. Any person who shall willfully or maliciously overdrive, overload, torture, destroy or kill, or cruelly beat or injure, maim or mutilate, any animal in subjugation or captivity, whether wild or tame, and whether belonging to himself or to another, or deprive any such animal of necessary food, drink or shelter; or who shall cause, procure or permit any such animal to be so overdriven, overloaded, tortured, destroyed or killed, or cruelly beaten or injured, maimed or mutilated, or deprived of necessary food, drink or shelter; or who shall willfully set on foot, instigate, engage in, or in any way further any act of cruelty to any animal, or any act tending to produce such cruelty, shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary not exceeding five (5) years, or by imprisonment in the county jail not exceeding one (1) year, or by a fine not exceeding Five Thousand Dollars (\$5,000.00).

B. Any peace officer, animal control officer, or agent or officer of the Society for the Prevention of Cruelty to Animals or of any humane society duly incorporated for the purpose of the prevention of cruelty to animals, upon finding an animal so

maltreated or abused, shall cause the same to be taken care of, ~~and the charges therefor shall be a lien upon such animal, to be collected thereon as upon a pledge or a lien.~~

C. 1. After an animal has been seized and prior to any charges being filed, the agency or humane society that took custody of the animal may petition the district court in the county in which the animal was seized for a bond hearing to determine the cost and care for the animal. The bond hearing shall be held as soon as practicable and not more than ten (10) business days from the date of application for the bond hearing. If the court finds that probable cause exists that an animal has been abused as provided for in subsection A of this section, the court may order immediate forfeiture of the animal to the agency or humane society that took custody of the animal. Provided, however, within seventy-two (72) hours of the order of forfeiture, the person owning or having charge or custody of the animal may post a security bond in an amount determined by the court that is sufficient to reimburse all reasonable and anticipated costs incurred by the agency or humane society caring for the animal from the date of seizure. Reasonable costs include, but are not limited to, medical care and boarding of the animal.

2. The bond shall be placed with the agency or humane society that took custody of the animal. The agency or humane society shall provide an accounting of expenses to the court when the animal is no longer in need of care or upon request by the court. The agency or humane society may petition the court for a subsequent bond hearing at any time. The bond hearing shall be held as soon as practicable and not more than ten (10) business days from the date of application for the bond hearing. When all expenses covered by the bond are exhausted and a subsequent bond has not been posted, the animal shall be forfeited to the agency or humane society.

3. If the animal is returned to the person who previously owned or had charge or custody of the animal, funds not used for the care of the animal shall be returned. Any funds spent in caring for the animal while pending final disposition are nonrefundable.

4. Nothing in this section shall prevent the euthanasia of a seized animal at any time as determined by a licensed veterinarian of the state.

SECTION 4. AMENDATORY 21 O.S. 2001, Section 1686, is amended to read as follows:

Section 1686. A. Any person owning or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons ~~said~~ the animal or who allows ~~said~~ the animal to lie in a public street, road, or public place one (1) hour after ~~said~~ the person receives notice by a duly constituted authority that the animal is disabled or dead, upon conviction, shall be guilty of a misdemeanor.

B. Any peace officer, animal control officer, or agent or officer of the Society for the Prevention of Cruelty to Animals or of any humane society duly incorporated for the purpose of the prevention of cruelty to animals may destroy or cause to be destroyed any animal found abandoned and for which no proper care has been given.

C. When any person who is arrested, and who is at the time of ~~such~~ the arrest in charge of any animal or of any vehicle drawn by or containing any animal, any peace officer, animal control officer, or agent or officer of said humane societies may take custody of the animal or of the vehicle and its contents, or deliver the animal or the vehicle and its contents into the possession of the police or sheriff of the county or place where ~~such~~ the arrest was made, who shall assume the custody thereof. ~~All necessary expenses incurred in taking custody of the animal or of the vehicle and its contents shall be a lien on such property.~~

D. 1. After an animal has been seized and prior to any charges being filed, the agency or humane society that took custody of the animal may petition the district court in the county in which the animal was seized for a bond hearing to determine the cost and care for the animal. The bond hearing shall be held as soon as practicable and not more than ten (10) business days from the date of application for the bond hearing. If the court finds that probable cause exists that an animal has been abused as provided for in subsection A of this section, the court may order immediate forfeiture of the animal to the agency or humane society that took custody of the animal. Provided, however, within seventy-two (72) hours of the order of forfeiture, the person owning or having charge or custody of the animal may post a security bond in an amount determined by the court that is sufficient to reimburse all reasonable and anticipated costs incurred by the agency or humane society caring for the animal from the date of seizure. Reasonable costs include, but are not limited to, medical care and boarding of the animal.

2. The bond shall be placed with the agency or humane society that took custody of the animal. The agency or humane society shall provide an accounting of expenses to the court when the animal is no longer in need of care or upon request by the court. The agency or humane society may petition the court for a subsequent bond hearing at any time. The bond hearing shall be held as soon as practicable and not more than ten (10) business days from the date of application for the bond hearing. When all expenses covered by the bond are exhausted and a subsequent bond has not been posted, the animal shall be forfeited to the agency or humane society.

3. If the animal is returned to the person who previously owned or had charge or custody of the animal, funds not used for the care of the animal shall be returned. Any funds spent in caring for the animal while pending final disposition are nonrefundable.

4. Nothing in this section shall prevent the euthanasia at any time of a seized animal as determined by a licensed veterinarian of the state.

E. For the purpose of the provisions of this section and Section 1691 of this title, the term "abandon" means the voluntary relinquishment of an animal with no intention to retain possession and shall include but shall not be limited to vacating a premises and leaving the animal in or at the premises, or failing to feed the animal or allowing it to stray or wander onto private or public property with the intention of surrendering ownership or custody over ~~said~~ the animal.

SECTION 5. This act shall become effective November 1, 2005.

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