

House Bill 3041

Sponsored by Representatives CLEM, OLSON; Representatives GELSER, JOHNSON, SCHAUFLEER, SPRENGER, Senator MORSE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes district attorney to file petition in criminal case, on behalf of county or animal care agency, seeking forfeiture of animals alleged to have been abused.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to forfeiture; amending ORS 167.347; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 167.347 is amended to read:

5 167.347. (1) If any animal is impounded pursuant to ORS 167.345 and is being held by a county
6 animal shelter or other animal care agency pending outcome of criminal action charging a violation
7 of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428, prior to final disposition of the
8 criminal charge, the county or other animal care agency **or, on behalf of the county or other**
9 **animal care agency, the district attorney**, may file a petition in the criminal action requesting
10 that the court issue an order forfeiting the animal to the county or other animal care agency prior
11 to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon
12 the defendant and, **unless the district attorney has filed the petition on behalf of the county**
13 **or other animal care agency**, the district attorney.

14 (2) Upon receipt of a petition pursuant to subsection (1) of this section, the court shall set a
15 hearing on the petition. The hearing shall be conducted within 14 days after the filing of the peti-
16 tion, or as soon as practicable.

17 (3)(a) At a hearing conducted pursuant to subsection (2) of this section, the petitioner shall have
18 the burden of establishing probable cause to believe that the animal was subjected to a violation
19 of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. If the court finds that probable cause
20 exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defend-
21 ant, within 72 hours of the hearing, posts a security deposit or bond with the court clerk in an
22 amount determined by the court to be sufficient to repay all reasonable costs incurred, and antic-
23 ipated to be incurred, by the petitioner in caring for the animal from the date of initial impoundment
24 to the date of trial.

25 (b) Notwithstanding paragraph (a) of this subsection, a court may waive for good cause shown
26 the requirement that the defendant post a security deposit or bond.

27 (4) If a security deposit or bond has been posted in accordance with subsection (3) of this sec-
28 tion, and the trial in the action is continued at a later date, any order of continuance shall require
29 the defendant to post an additional security deposit or bond in an amount determined by the court
30 that shall be sufficient to repay all additional reasonable costs anticipated to be incurred by the

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 petitioner in caring for the animal until the new date of trial.

2 (5) If a security deposit or bond has been posted in accordance with subsection (4) of this sec-
3 tion, the petitioner may draw from that security deposit or bond the actual reasonable costs in-
4 curred by the petitioner in caring for the impounded animal from the date of initial impoundment
5 to the date of final disposition of the animal in the criminal action.

6 (6) The provisions of this section are in addition to, and not in lieu of, the provisions of ORS
7 167.350 and 167.435.

8 **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**
9 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
10 **on its passage.**

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