

**ACT 128**

S.B. NO. 3203

A Bill for an Act Relating to Animal Hoarding.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 711, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§711- Animal hoarding.** (1) A person commits the offense of animal hoarding if the person intentionally, knowingly, or recklessly:

- (a) Possesses more than twenty dogs, cats, or a combination of dogs and cats;
  - (b) Fails to provide necessary sustenance for each dog or cat; and
  - (c) Fails to correct the conditions under which the dogs or cats are living, where conditions injurious to the dogs', cats', or owner's health and well-being result from the person's failure to provide necessary sustenance.
- (2) Animal hoarding is a misdemeanor.”

SECTION 2. Section 711-1109.1, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) If there is probable cause to believe that a pet animal is being subjected to treatment in violation of section 711-1108.5, 711-1109, [~~or~~] 711-1109.3, or 711-\_\_\_\_, a law enforcement officer, after obtaining a search warrant or in any other manner authorized by law, may enter the premises where the pet animal is located to provide the pet animal with food, water, and emergency medical treatment or to impound the pet animal. If after reasonable effort, the owner or person having custody of the pet animal cannot be found and notified of the impoundment, an impoundment notice shall be conspicuously posted on the premises and within seventy-two hours after posting, the notice shall be sent by certified mail to the address, if any, from which the pet animal was removed.”

SECTION 3. Section 711-1109.2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (1) to read as follows:

“(1) If any pet animal is impounded pursuant to section 711-1109.1, prior to final disposition of the criminal charge under section 711-1108.5, 711-1109, [~~or~~] 711-1109.3, or 711-\_\_\_\_, against the pet animal's owner, any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals that is holding the pet animal may file a petition in the criminal action requesting that the court issue an order for forfeiture of the pet animal to the county or to the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals prior to final disposition of the criminal charge. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.”

2. By amending subsection (3) to read as follows:

“(3) At a hearing conducted pursuant to subsection (2), the petitioner shall have the burden of establishing probable cause that the pet animal was subjected to a violation of section 711-1108.5, 711-1109, [~~or~~] 711-1109.3[~~]~~, or 711-\_\_\_\_. If the court finds that probable cause exists, the court shall order immediate forfeiture of the pet animal to the petitioner, unless the defendant, within seventy-two hours of the hearing:

- (a) Posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the pet animal from the date of initial impoundment to the date of trial; or
- (b) Demonstrates to the court that proper alternative care has been arranged for the pet animal.

Notwithstanding subsection (3)(a), a court may waive, for good cause shown, the requirement that the defendant post a security deposit or bond.”

3. By amending subsection (5) to read as follows:

“(5) No pet animal may be destroyed by a petitioner under this section prior to final disposition of the criminal charge under section 711-1108.5, 711-1109, [~~or~~]

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711-1109.3, or 711- against the pet animal's owner, except in the event that the pet animal is so severely injured that there is no reasonable probability that its life can be saved."

SECTION 4. Section 711-1110.5, Hawaii Revised Statutes, is amended to read as follows:

**"§711-1110.5 Surrender or forfeiture of animals.** Upon conviction, guilty plea, or plea of nolo contendere for any violation of section 711-1108.5, 711-1109, [~~or~~] 711-1109.3[~~;~~], or 711- .

- (1) The court may order the defendant to surrender or forfeit the animal whose treatment was the basis of the conviction or plea to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order; and
- (2) The court also may order the defendant to surrender or forfeit any other animals under the possession, custody, or control of the defendant to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for the time and under the conditions as the court shall order, if there is substantial evidence that the animals are being abused or neglected.

The court shall order the defendant to reimburse the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for reasonable costs incurred to care, feed, and house any animal that is surrendered or forfeited pursuant to this section."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval and shall be repealed on July 1, 2011.

(Approved May 30, 2008.)

### Note

1. Edited pursuant to HRS §23G-16.5.