



SB-009 - Cost of Care for Impounded Animals

Sponsors: Sen. Steadman/Guzman & Rep. Fischer

- Addresses concerns about due process identified in recent impound cases
- Gives owners of impounded animals an opportunity to be heard
- Clarifies purposes of the hearing and brings into statute matters that are commonly addressed
- Places impound hearings in criminal court to make process more efficient, in recognition of the serious nature of the proceedings, and to ensure admissibility at trial of defendant's statements at cost of care hearing
- Minimizes cost to impound agency (municipal animal control agencies, humane societies, and Colorado Department of Agriculture) – while impounds represent a small number of cases, the costs are significant
- Recognizes that living evidence is unique and requires more expediency in animal impoundment cases
- Minimizes stress on animals by limiting time between impoundment and decision making
- Sets hearing deadlines that help limit impounding agency costs associated with hearing delays
- Clarifies the terms used to describe the cost of impound and care

By the numbers*

In 2010, the Colorado Bureau of Animal Protection reported:

- Total Animal Investigations - 12,373
- Total Animals Impounded – 1,078 (cases often involve impoundment of more than one animal)
- Total Warning/Summons Issued to Owners - 4,612

Animal Cruelty/Dangerous Dog Cases Registered by Court Clerks – past 5 years:

- Yearly Avg # Animal Cruelty Cases (Neglect/Abandonment – Knowingly Torture/Kill) Charged: 323
- Yearly Avg # Dangerous Dog Cases (Injury/Death of another Animal – Injury/Death of a Person) Charged: 372

The agency involved in the most impounds reported in 2008:

- Total responses to animal cruelty cases: **10,675 (responses generated by 4,783 complaints)**
- Total number of animals impounded in these cases: **137** (less than 3% of all the complaints resulted in impound)
- Species involved: **99% of cases = cats, dogs, equines**, remaining 1%= other (small mammals, birds, etc...)
- Disposition of enforcement cases: Plea deal (36%), Guilty as charged (29%), Declined by DA (27%), Warrant issued for failure to appear (7%), Not guilty (1%).

*Compilation of data from CO Dept of Ag, court clerks, and impounding agencies. No central database exists to track animal cruelty/dangerous dog complaints, the charges filed and animals impounded based on those complaints, and the disposition of those cases.

How does the impound statute work now?

A Colorado Bureau of Animal Protection agent, a Colorado Department of Agriculture employee, or a local law enforcement officer can impound animals that are either the subject of a cruelty/neglect investigation (C.R.S. 18-9-202.5) or are dangerous to the community (C.R.S. 18-9-204.5). The impounding agency notifies the owner or custodian of the impoundment and provides an estimate of the cost of care for the first 30 days of impoundment. In order to preserve ownership of the animals, the owner must post security in the amount listed in the notice within 10 days. The notice also indicates that the owner or custodian may request a hearing to discuss contest the cost of care as unreasonable. The owner must request the hearing within 10 days of the impoundment. If the owner does not post a bond or request a hearing, the animals become the property of the impounding agency and can be adopted, sold or euthanized.

If the owner requests the hearing and posts security to cover the cost of care for 30 days, the agency holds the animals during that time. The owner must post additional funds every 30 days to preserve ownership of the animals until resolution of the criminal case. If the owner fails to post the funds in a timely manner, the animals are eligible to be adopted, sold or euthanized.

Why are changes needed?

The animal impound statute provides a unique mechanism that is only applicable to living property. A few jurisdictions see a higher incidence of dangerous dog or animal cruelty impounds than others and in these jurisdictions, the statute is well understood by those who use it. In most other jurisdictions, the statute may be unclear or confusing to owners, their lawyers, or courts that do not handle these cases regularly. This confusion often results in animals being held “in limbo” for longer periods than the statute intends. The longer animals are held, the more stress the animals experience from being in an unfamiliar environment and, the more costs the agency incurs.

Owners whose animals have been impounded have also expressed concern that they have not been able to address arguments relating to the impoundment of their animals (not the cruelty charges), including sufficiency of probable cause. SB 9 provides a mechanism for probable cause and other related issues to be discussed at the initial hearing.

By revising the procedures in the statute, the hearing and disposition process will be clearer for all involved. This will reduce the time animals are held and decrease costs for impounding agencies (cities, counties, humane societies), while providing owners with additional due process protections.

What happens if these changes are not made?

Some agencies, particularly municipal or county animal control agencies, may not be able to seize abused animals because of the potential for unchecked costs associated with open-ended impoundment of animals. Dangerous dogs that are seized may be held longer than necessary, putting animal care and control staff at risk. Without clarification of the existing statute, parties unfamiliar with the impound process could continue apply the statute incorrectly, placing people and animals at risk.

What types of animals are affected?

The animal cruelty statute, and the provisions that allow for animal impounds, apply to any living “dumb” creature. The Department of Agriculture and local law enforcement are the only parties with the authority to impound livestock. The dangerous animal provisions that allow dogs to be impounded after injury to a person or other animal only apply to dogs.

Does the ultimate resolution of the cruelty case against the defendant affect the cost of care?

No. Animals that are being held pending the outcome of a cruelty or dangerous dog case require feeding and care, in the same way they would if they were being housed at home. In many cases, seized animals need more care because of the condition or injury they have sustained. Whether the defendant enters into a plea deal, pleads to charges other than animal cruelty, is found guilty of a felony or misdemeanor, or is found not guilty, the impound agency still incurs costs for the time period that it holds and cares for animals.

Had the animals not been impounded, the owner would have been responsible for the cost of caring for their animals. Regardless of the outcome, the existing impound statute and SB 9 keep the responsibility for the costs of care with the owner.

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