

AN ACT concerning animals.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Humane Care for Animals Act is amended by changing Sections 3.04, 3.05, and 4 as follows:

(510 ILCS 70/3.04)

Sec. 3.04. Arrests and seizures; penalties.

(a) Any law enforcement officer making an arrest for an offense involving one or more companion animals under Section 3.01, 3.02, ~~or 3.03~~, 4.01, or 7.1 of this Act may lawfully take possession of some or all of the companion animals in the possession of the person arrested. The officer, after taking possession of the companion animals, must file with the court before whom the complaint is made against any person so arrested an affidavit stating the name of the person charged in the complaint, a description of the condition of the companion animal or companion animals taken, and the time and place the companion animal or companion animals were taken, together with the name of the person from whom the companion animal or companion animals were taken and name of the person who claims to own the companion animal or companion animals if different from the person from whom the companion animal or companion animals were seized. He or she must at the same time deliver an

inventory of the companion animal or companion animals taken to the court of competent jurisdiction. The officer must place the companion animal or companion animals in the custody of an animal control or animal shelter and the agency must retain custody of the companion animal or companion animals subject to an order of the court adjudicating the charges on the merits and before which the person complained against is required to appear for trial. If the animal control or animal shelter owns no facility capable of housing the companion animals, has no space to house the companion animals, or is otherwise unable to house the companion animals or the health or condition of the animals prevents their removal, the animals shall be impounded at the site of the violation pursuant to a court order authorizing the impoundment, provided that the person charged is an owner of the property. Employees or agents of the animal control or animal shelter or law enforcement shall have the authority to access the on-site impoundment property for the limited purpose of providing care and veterinary treatment for the impounded animals and ensuring their well-being and safety. Upon ~~For an on-site~~ impoundment, a petition for posting of security may be filed under Section 3.05 of this Act. Disposition of the animals shall be controlled by Section 3.06 of this Act. The State's Attorney may, within 14 days after the seizure, file a "petition for forfeiture prior to trial" before the court having criminal jurisdiction over the alleged charges, asking for permanent forfeiture of the companion

animals seized. The petition shall be filed with the court, with copies served on the impounding agency, the owner, and anyone claiming an interest in the animals. In a "petition for forfeiture prior to trial", the burden is on the prosecution to prove by a preponderance of the evidence that the person arrested violated Section 3.01, 3.02, 3.03, ~~or~~ 4.01, or 7.1 of this Act or Section 26-5 or 48-1 of the Criminal Code of 1961 or the Criminal Code of 2012.

(b) An owner whose companion animal or companion animals are removed by a law enforcement officer under this Section must be given written notice of the circumstances of the removal and of any legal remedies available to him or her. The notice must be delivered in person, posted at the place of seizure, or delivered to a person residing at the place of seizure or, if the address of the owner is different from the address of the person from whom the companion animal or companion animals were seized, delivered by registered mail to his or her last known address.

(c) In addition to any other penalty provided by law, upon conviction for violating Sections 3, 3.01, 3.02, ~~or~~ 3.03, 4.01, or 7.1 of this Act or Section 26-5 or 48-1 of the Criminal Code of 1961 or the Criminal Code of 2012, the court may order the convicted person to forfeit to an animal control or animal shelter the animal or animals that are the basis of the conviction. Upon an order of forfeiture, the convicted person is deemed to have permanently relinquished all rights to the

animal or animals that are the basis of the conviction, if not already. The forfeited animal or animals shall be adopted or humanely euthanized. In no event may the convicted person or anyone residing in his or her household be permitted to adopt or otherwise possess the forfeited animal or animals. The court, additionally, may order that the convicted person and persons dwelling in the same household as the convicted person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any other animals for a period of time that the court deems reasonable.

(Source: P.A. 99-321, eff. 1-1-16.)

(510 ILCS 70/3.05)

Sec. 3.05. Security for companion animals and animals used for fighting purposes.

(a) In the case of companion animals as defined in Section 2.01a or animals used for fighting purposes in violation of Section 4.01 of this Act or Section 26-5 or 48-1 of the Criminal Code of 1961 or the Criminal Code of 2012 or a violation of 3.01, 3.02, 3.03, or 7.1 of this Act, the animal control or animal shelter having custody of the animal or animals may file a petition with the court requesting that the person from whom the animal or animals are seized, or the owner of the animal or animals, be ordered to post security. The

security must be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the animal control or animal shelter in caring for and providing for the animal or animals pending the disposition of the charges. Reasonable expenses include, but are not limited to, estimated medical care and boarding of the animal or animals for 30 days. The amount of the security shall be determined by the court after taking into consideration all of the facts and circumstances of the case, including, but not limited to, the recommendation of the impounding organization having custody and care of the seized animal or animals and the cost of caring for the animal or animals. If security has been posted in accordance with this Section, the animal control or animal shelter may draw from the security the actual costs incurred by the agency in caring for the seized animal or animals.

(b) Upon receipt of a petition, the court must set a hearing on the petition, to be conducted within 5 business days after the petition is filed. The petitioner must serve a true copy of the petition upon the defendant and the State's Attorney for the county in which the animal or animals were seized. The petitioner must also serve a true copy of the petition on any interested person. For the purposes of this subsection, "interested person" means an individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity that the court determines may have a pecuniary interest in the animal or

animals that are the subject of the petition. The court must set a hearing date to determine any interested parties. The court may waive for good cause shown the posting of security.

(c) If the court orders the posting of security, the security must be posted with the clerk of the court within 5 business days after the hearing. If the person ordered to post security does not do so, the animal or animals are forfeited by operation of law and the animal control or animal shelter having control of the animal or animals must dispose of the animal or animals through adoption or must humanely euthanize the animal. In no event may the defendant or any person residing in the defendant's household adopt the animal or animals.

(d) The impounding organization may file a petition with the court upon the expiration of the 30-day period requesting the posting of additional security. The court may order the person from whom the animal or animals were seized, or the owner of the animal or animals, to post additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal or animals were seized.

(e) In no event may the security prevent the impounding organization having custody and care of the animal or animals from disposing of the animal or animals before the expiration of the 30-day period covered by the security if the court makes

a final determination of the charges against the person from whom the animal or animals were seized. Upon the adjudication of the charges, the person who posted the security is entitled to a refund of the security, in whole or in part, for any expenses not incurred by the impounding organization.

(f) Notwithstanding any other provision of this Section to the contrary, the court may order a person charged with any violation of this Act to provide necessary food, water, shelter, and care for any animal or animals that are the basis of the charge without the removal of the animal or animals from their existing location and until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, animal control officer, Department investigator, or an approved humane investigator may be authorized by an order of the court to make regular visits to the place where the animal or animals are being kept to ascertain if the animal or animals are receiving necessary food, water, shelter, and care. Nothing in this Section prevents any law enforcement officer, Department investigator, or approved humane investigator from applying for a warrant under this Section to seize any animal or animals being held by the person charged pending the adjudication of the charges if it is determined that the animal or animals are not receiving the necessary food, water, shelter, or care.

(g) Nothing in this Act shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner

to an animal control or animal shelter in lieu of posting security or proceeding to a forfeiture hearing. Voluntary relinquishment shall have no effect on the criminal charges that may be pursued by the appropriate authorities.

(h) If an owner of a companion animal is acquitted by the court of charges made pursuant to this Act, the court shall further order that any security that has been posted for the animal shall be returned to the owner by the impounding organization.

(i) The provisions of this Section only pertain to companion animals and animals used for fighting purposes.

(Source: P.A. 97-1108, eff. 1-1-13; 97-1150, eff. 1-25-13.)

(510 ILCS 70/4) (from Ch. 8, par. 704)

Sec. 4. Prohibited acts. No person may sell, offer for sale, barter, or give away as a pet or a novelty any rabbit or any baby chick, duckling or other fowl which has been dyed, colored, or otherwise treated to impart an artificial color thereto. Baby chicks or ducklings shall not be sold, offered for sale, bartered, or given away as pets or novelties. Rabbits, ducklings or baby chicks shall not be awarded as prizes.

No person may allow for the adoption, transfer, sale, offer for sale, barter, or give away any animal forfeited or relinquished under Section 3.04 or 3.05 of this Act to the person who forfeited the animal or a person residing in that

person's household.

A person convicted of violating this Section is guilty of a Class B misdemeanor. A second or subsequent violation is a Class 4 felony, with every day that a violation continues constituting a separate offense.

(Source: P.A. 92-650, eff. 7-11-02.)