

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 384

99TH GENERAL ASSEMBLY

0331H.02P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 578.018 and 578.030, RSMo, and to enact in lieu thereof two new sections relating to confiscation of animals, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 578.018 and 578.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 578.018 and 578.030, to read as follows:

578.018. 1. Any duly authorized ~~[public health official or]~~ law enforcement official may seek a warrant from the appropriate **circuit** court to enable him or her to enter private property in order to inspect, care for, or ~~[impound]~~ **confiscate** neglected or abused animals **as set forth in such warrant**. All requests for such warrants shall be **signed, witnessed, and** accompanied by an affidavit stating the probable cause to believe a violation of sections 578.005 to ~~[578.023]~~ **578.025** has occurred. A person acting under the authority of a warrant shall:

(1) ~~[Be given]~~ **Appear at** a disposition hearing before the court through which the warrant was issued, within ~~[thirty]~~ **ten** days of ~~[the filing of the request]~~ **confiscation** for the purpose of granting immediate disposition of the animals ~~[impounded]~~ . **No animal shall be sterilized prior to the completion of such disposition hearing unless necessary to save life or relieve suffering;**

(2) Place ~~[impounded]~~ animals in the care or custody of a veterinarian, the appropriate animal control authority, ~~[or]~~ an animal shelter, **or third party approved by the court**. If no appropriate veterinarian, animal control authority, ~~[or]~~ animal shelter, **or third party** is available, the animal shall not be ~~[impounded]~~ **confiscated** unless it is diseased or disabled beyond recovery for any useful purpose;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (3) Humanely kill any animal [~~impounded~~] **confiscated** if it is determined by a licensed  
18 veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose;

19 (4) Not be liable for any **reasonable and** necessary damage to property while acting  
20 under such warrant.

21 2. **(1) The owner of any animal that has been confiscated under this section shall**  
22 **not be responsible for the animal's care and keeping prior to a disposition hearing if the**  
23 **owner is acquitted or there is a final discharge without conviction.**

24 **(2) After completion of the disposition hearing,** the owner or custodian or any person  
25 claiming an interest in any animal that has been [~~impounded~~] **confiscated** because of neglect or  
26 abuse may prevent disposition of the animal **after the disposition hearing and until final**  
27 **judgment, settlement, or dismissal of the case** by posting **reasonable** bond or security **within**  
28 **seventy-two hours of the disposition hearing** in an amount sufficient to provide for the  
29 animal's care and keeping [~~for at least thirty days, inclusive of the date on which the animal was~~  
30 ~~taken into custody~~] **and consistent with the fair market cost of boarding such an animal in**  
31 **an appropriate retail boarding facility.** Notwithstanding the fact that **reasonable** bond may  
32 be posted pursuant to this [~~subsection~~] **subdivision,** the authority having custody of the animal  
33 may humanely dispose of the animal at the end of the time for which **reasonable** expenses are  
34 covered by the bond or security, unless there is a court order prohibiting such disposition. Such  
35 order shall provide for a **reasonable** bond or other security in the amount necessary to protect  
36 the authority having custody of the animal from any cost of the care, keeping or disposal of the  
37 animal.

38 **(3)** The authority taking custody of an animal shall give notice of the provisions of this  
39 section [~~by posting a copy of this section at the place where the animal was taken into custody~~  
40 ~~or~~] **by delivering [it] a copy of this section** to a person residing on the property.

41 3. The owner or custodian of any animal humanely killed pursuant to this section shall  
42 not be entitled to recover any damages related to nor the actual value of the animal if the animal  
43 was found by a licensed veterinarian to be diseased or disabled **beyond recovery for any useful**  
44 **purpose,** or if the owner or custodian failed to post bond or security for the care, keeping and  
45 disposition of the animal after being notified of [~~impoundment~~] **confiscation and after**  
46 **completion of the disposition hearing.**

47 **4. All animals confiscated under this section shall receive proper care as determined**  
48 **by state law and regulations for each specific animal and facility or organization where the**  
49 **animal is placed after such confiscation. Any such facility or organization shall be liable**  
50 **to the owner for damages for any negligent acts or abuse of such animal which occurs while**  
51 **the animal is in the care, custody, and control of such facility or organization.**

52           **5. In the event that the animal owner is not liable for the costs incurred for the**  
53 **placement and care of an animal or animals while charges were pending, such costs**  
54 **relating to placement and care, as well as liability for the life or death of the animal and**  
55 **for medical procedures performed while charges were pending, shall be the responsibility**  
56 **of and shall be borne and paid by the confiscating agency. Such costs shall be consistent**  
57 **with the fair market value of boarding an animal at a retail establishment and with the**  
58 **usual and customary costs of veterinary medical services provided by a clinic licensed**  
59 **under chapter 340.**

60           **6. If the owner posted a sufficient bond and is acquitted or there is a final discharge**  
61 **without conviction, unless there is a settlement agreement, consent judgment, or a**  
62 **suspended imposition of sentence, the owner may demand the return of the animal held in**  
63 **custody. Any entity with care, custody, and control of such animal shall immediately**  
64 **return such animal to the owner upon demand and proof of such acquittal or final**  
65 **discharge without conviction. Upon acquittal or final discharge without conviction, unless**  
66 **there is a settlement agreement, consent judgment, or a suspended imposition of sentence,**  
67 **the owner shall not be liable for any costs incurred relating to the placement or care of the**  
68 **animal during the pendency of the charges.**

69           **7. Any person or entity that intentionally euthanizes, other than as permissible**  
70 **under this section, or intentionally sterilizes an animal prior to a disposition hearing or**  
71 **during any period for which reasonable bond was secured for the animal's care is guilty**  
72 **of a class B misdemeanor and shall be liable to the owner of the animal for damages**  
73 **including the actual value of the animal. Each individual animal for which a violation**  
74 **occurs is a separate offense. Any second or subsequent violation is a class A misdemeanor,**  
75 **and any entity licensed under state law shall be subject to licensure sanction by its**  
76 **governing body.**

          578.030. 1. The provisions of section 43.200 notwithstanding, any member of the state  
2 highway patrol or other law enforcement officer may apply for and serve a search warrant, and  
3 shall have the power of search and seizure in order to enforce the provisions of sections 578.025  
4 to 578.050. **All requests for such warrants shall be signed, witnessed, and accompanied by**  
5 **an affidavit stating the probable cause to believe a violation of sections 578.025 to 578.050**  
6 **has occurred.**

7           2. Any member of the state highway patrol or other law enforcement officer making an  
8 arrest under section 578.025 shall lawfully take possession of all dogs or other animals **in**  
9 **accordance with the provisions of section 578.018** and all paraphernalia, implements, or other  
10 property or things used or employed, or about to be employed, in the violation of any of the  
11 provisions of section 578.025. Such officer, after taking possession of such dogs, animals,

12 paraphernalia, implements or other property or things, shall file with the court before whom the  
13 complaint is made against any person so arrested an affidavit stating therein the name of the  
14 person charged in such complaint, a description of the property so taken and the time and place  
15 of the taking thereof together with the name of the person from whom the same was taken and  
16 the name of the person who claims to own such property, if known, and that the affiant has  
17 reason to believe and does believe, stating the ground of such belief, that the property so taken  
18 was used or employed, or was about to be used or employed, in such violation of section  
19 578.025. He or she shall thereupon deliver the property so taken to the court, which shall, by  
20 order in writing, place the same in the custody of an officer or other proper person named and  
21 designated in such order, to be kept by him or her until the conviction or final discharge of such  
22 person complained against, and shall send a copy of such order without delay to the prosecuting  
23 attorney of the county. The officer or person so named and designated in such order shall  
24 immediately thereupon assume the custody of such property and shall retain the same, subject  
25 to the order of the court before which such person so complained against may be required to  
26 appear for trial. **If the property includes animals, the placement of the animals shall be**  
27 **handled in accordance with the provisions of section 578.018.** Upon the conviction of the  
28 person so charged, all property so seized shall be adjudged by the court to be forfeited and shall  
29 thereupon be destroyed or otherwise disposed of as the court may order. In the event of the  
30 acquittal or final discharge without conviction of the person so charged, such court shall, on  
31 demand, direct the delivery of such property so held in custody to the owner thereof.

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