

Animal Crime Victim Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Verona Mauga

Senate Sponsor:

LONG TITLE**General Description:**

This bill modifies provisions related to the release and forfeiture of an animal that is being held because of abuse or involvement in a crime.

Highlighted Provisions:

This bill:

- provides a process to permit, while legal resolution of a crime is ongoing, the release or transfer of an animal being held in a shelter because the animal was abused or was involved in a crime;
- establishes a criminal penalty for unlawfully giving an individual access to an animal that the individual has legally forfeited ownership of due to abuse or a crime involving the animal;
- permits a peace officer in possession of a warrant to enter premises or a vehicle to aid or take custody of an animal that is being criminally mistreated or is associated with a crime;
- requires notice to the owner or possessor of the animal;
- permits a shelter or government counsel to file a motion to have a court review whether an animal being held in a shelter due to criminal activity should be forfeited or transferred to alternative care;
- provides procedures for the hearing and the court's determination, and permits the animal's owner to be heard as part of the hearing;
- provides procedures for placement of the animal if the court orders ownership of the animal to be forfeited;
- permits a court to order an animal owner to pay for the costs of sheltering an animal due to the owner's criminal activity;
- permits a court to order an individual who has abused an animal or involved an animal in criminal activity to complete an educational or animal cruelty prevention program;
- provides cross references for the forfeiture procedure; and

▸ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-9-301.6, as last amended by Laws of Utah 2008, Chapter 292

76-9-305, as last amended by Laws of Utah 1977, Chapter 87

ENACTS:

76-9-305.5, Utah Code Annotated 1953

77-11b-501, Utah Code Annotated 1953

77-11b-502, Utah Code Annotated 1953

77-11b-503, Utah Code Annotated 1953

77-11b-504, Utah Code Annotated 1953

77-11b-505, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-9-301.6** is amended to read:

76-9-301.6 . Dog fighting exhibition -- Authority to arrest and take possession of dogs and property -- Disposition.

(1) A peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications, may enter any place, building, or tenement where an exhibition of dog fighting is occurring, or where preparations are being made for such an exhibition and, without a warrant, arrest all persons present.

(2)(a) Notwithstanding the provisions of Section 76-9-305, any authorized officer who makes an arrest under Subsection (1) may lawfully take possession of all dogs, paraphernalia, implements, or other property or things used or employed, or to be employed, in an exhibition of dog fighting prohibited by Subsection 76-9-301(2)(e) or Section 76-9-301.1.

(b) The officer, at the time of the taking of property pursuant to Subsection (2)(a), shall state [his] the officer's name and provide other identifying information to the person in charge of the dogs or property taken.

(3)(a) After taking possession of dogs, paraphernalia, implements, or other property or

things under Subsection (2), the officer shall file an affidavit with the judge or magistrate before whom a complaint has been made against any person arrested under this section.

(b) The affidavit shall include:

- (i) the name of the person charged in the complaint;
- (ii) a description of all property taken;
- (iii) the time and place of the taking of the property;
- (iv) the name of the person from whom the property was taken;
- (v) the name of the person who claims to own the property, if known; and
- (vi) a statement that the officer has reason to believe and believes that the property taken was used or employed, or was to be used or employed, in violation of Section 76-9-301 or 76-9-301.1, and the grounds for the belief.

(4)(a) The officer shall deliver the confiscated property to the judge or magistrate who shall, by order, place the property in the custody of the officer or any other person designated in the order, and that person shall keep the property until:

- (i) if the property is an animal, the animal is impounded or forfeited according to the procedures of Title 77, Chapter 11b, Part 5, Forfeiture of Impounded Animals; or
- (ii) the conviction or final discharge of the person against whom the complaint was made.

(b) The person designated in Subsection (4)(a) shall assume immediate custody of the property, and retain the property until further order of the court.

(c) Upon conviction of the person charged, all confiscated property shall be forfeited and destroyed or otherwise disposed of, as the court may order.

(d) If the person charged is acquitted or discharged without conviction, the court shall, on demand, order the property to be returned to its owner.

Section 2. Section **76-9-305** is amended to read:

76-9-305 . Officer's authority to take possession of animals -- Lien for care --

Disposition of animal.

(1) Any law enforcement officer may take possession of any animals being treated cruelly and, after reasonable efforts to notify the owner, may provide shelter and care for them or upon permission from the owner may destroy them.

(2) Officers caring for animals pursuant to this section have a lien for the reasonable value of the care and/or destruction. Any court upon proof that the owner has been notified of the lien and amount due, at least five days prior, shall order the animal sold at public

99 auction or destroyed.

100 (3) Any law enforcement officer may humanely destroy any animal found suffering past
101 recovery for any useful purpose. Before destroying the animal the officer shall obtain the
102 judgment to the effect of a veterinarian, or of two reputable citizens called by him to
103 view the animal in his presence, or shall obtain consent to the destruction from the
104 owner of the animal.

105 (4) An animal that is associated with a crime or an animal abuse charge may be eligible for
106 forfeiture and release under Title 77, Chapter 11b, Part 5, Forfeiture of Impounded
107 Animals.

108 Section 3. Section 76-9-305.5 is enacted to read:

109 **76-9-305.5 . Encouraging animal abuse.**

110 (1) As used in this section, "animal shelter" means the same as that term is defined in
111 Section 77-11b-501.

112 (2) A person commits the crime of encouraging animal abuse if the actor:

- 113 (a) obtains a previously abused, neglected, or abandoned animal from an animal shelter
114 pursuant to Section 77-11b-503 or a court pursuant to Section 77-11b-505; and
115 (b) knowingly allows the person from whom the animal was forfeited to possess the
116 animal.

117 (3) Encouraging animal abuse is a class C misdemeanor.

118 Section 4. Section 77-11b-501 is enacted to read:

119 **Part 5. Forfeiture of Impounded Animals**

120 **77-11b-501 . Definitions.**

121 As used in this part:

122 (1) "Animal" means the same as that term is defined in Section 76-9-301.

123 (2)(a) "Animal shelter" means a facility or program that provides services for stray, lost,
124 impounded, or unwanted animals, including holding animals or placing them for
125 adoption.

126 (b) "Animal shelter" includes:

127 (i) a publicly owned or managed facility or program; and

128 (ii) a facility or program that operates using a municipal or government contract for
129 animal services.

130 (c) "Animal shelter" does not include a private humane society or private animal welfare
131 organization.

132 (3) "Minimum care" means the following, taking into account the species, age, and physical

condition of the animal:

(a) appropriate and essential food and water;

(b) adequate protection, including appropriate shelter, against extreme weather conditions; and

(c) other essential care as may be determined by the animal shelter or court.

Section 5. Section 77-11b-502 is enacted to read:

77-11b-502 . Authority to enter and impound animal -- Order of impoundment.

(1) If there is probable cause to believe that any animal is being subjected to treatment in violation of Section 76-9-301, 76-9-301.1, 76-9-301.3, 76-9-301.7, 76-9-301.8, or 76-9-304, a peace officer, after obtaining a search warrant or in any other manner authorized by law, may enter the premises or motor vehicle where the animal is located to provide the animal with food, water, and emergency medical treatment, and may impound the animal.

(2) If the peace officer impounds the animal and, after reasonable effort, the owner or person having custody of the animal cannot be found and notified of the impoundment, notice of the impoundment shall be:

(a) conspicuously posted on the premises or motor vehicle; and

(b) sent by certified mail within 72 hours after the impoundment to the address where the animal was impounded.

(3) A peace officer is not liable for any damages for an entry under Subsection (1), unless the damages were caused by the unnecessary actions of the peace officer that were intentional or reckless.

(4)(a) A court may order an animal impounded under this section to be held at an animal shelter.

(b) A facility receiving the animal shall provide adequate food and water and may provide veterinary care.

Section 6. Section 77-11b-503 is enacted to read:

77-11b-503 . Forfeiture of animal before disposition of criminal action -- Petition

-- Notice -- Hearing.

(1)(a) If an animal is impounded under Section 76-9-301.6, Section 77-11b-502, or is otherwise being held by an animal shelter or any other animal care facility pending outcome of a criminal action charging a violation of Section 76-9-301, 76-9-301.1, 76-9-301.3, 76-9-301.7, 76-9-301.8, or 76-9-304, an animal shelter, a prosecutor, a county attorney, or a district attorney, may, before final disposition of the criminal

167 action, file a petition in the criminal action requesting that the court issue an order
168 forfeiting the animal to the county or an animal shelter before the final disposition of
169 the criminal action.

170 (b) A petition may be filed as part of a criminal action as provided in Subsection (1)(a)
171 concerning any animal that has been impounded pursuant to Section 76-9-301.6 or
172 77-11b-502 and held pending the outcome of the criminal action, regardless of
173 whether the specific animal is the subject of a criminal charge, or named in the
174 charging instrument, in the criminal action.

175 (c) The petitioner shall:

176 (i)(A) serve a copy of the petition on the defendant; or

177 (B) if the defendant cannot be personally served:

178 (I) state in the petition the reasons why the defendant cannot be personally
179 served; and

180 (II) provide the notice described under Subsection (1)(d); and

181 (ii) if the district attorney is not the filer of the petition, serve a copy of the petition
182 on the district attorney.

183 (d) If required by Subsection (1)(c)(i)(B), or if the petitioner elects to provide notice to
184 any potential claimant who may have an interest in an impounded animal, the
185 petitioner shall, at least five calendar days before the date of the hearing:

186 (i) publish notice in a newspaper of general circulation in the jurisdiction where the
187 impounded animal was found; and

188 (ii) post notice at a place provided for public notices in the jurisdiction where the
189 hearing will be held.

190 (e) A notice issued under Subsection (1)(d) shall contain:

191 (i) a description of the impounded animal or animals;

192 (ii) the name of the owner or reputed owner thereof;

193 (iii) the location from which the animal or animals were impounded;

194 (iv) the time and place of the hearing if the hearing has been set at the time of
195 publication or posting; and

196 (v) the name, address, and phone number for the attorney for the petitioner, who shall
197 provide further details on the date, place, and time of the hearing upon request.

198 (2) Upon receipt of a petition pursuant to Subsection (1), the court shall set a hearing on the
199 petition. The hearing shall be conducted within 14 days after the filing of the petition, or
200 as soon as practicable.

- (3)(a) At a hearing conducted pursuant to the requirements of this section:
- (i) the petitioner shall have the burden of establishing probable cause to believe that the animal was subjected to a violation of Section 76-9-301, 76-9-301.1, 76-9-301.3, 76-9-301.7, 76-9-301.8, or 76-9-304; and
- (ii) the defendant or any other claimant shall have an opportunity to be heard before the court makes its final finding.
- (b) If the court finds that probable cause exists, the court shall order immediate forfeiture of the animal to the petitioner, unless the defendant or any other claimant, within 72 hours of the hearing, posts a security deposit or bond with the court clerk in an amount according to the agency fee schedule.

Section 7. Section **77-11b-504** is enacted to read:

77-11b-504 . Placement of forfeited animal.

- (1) If an animal is forfeited according to the provisions of Section 77-11b-503 or 77-11b-505, the agency to which the animal was forfeited may place the animal with a new owner.
- (2) The agency may give placement preference to any person who had prior contact with the animal, including family members or friends of the former owner whom the agency determines are capable of providing necessary, adequate, and appropriate levels of care for the animal.
- (3) Notwithstanding any other provision of this section, the agency may not place the animal with:
- (a) a person who aided or abetted the criminal conduct underlying the forfeiture or had knowledge of the criminal conduct and failed to intervene; or
- (b) a person who resides with the former owner.
- (4) As a condition of placement, the agency shall require the new owner to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the former owner to possess the animal constitutes encouraging animal abuse, which is a crime under Section 76-9-305.5.

Section 8. Section **77-11b-505** is enacted to read:

77-11b-505 . Forfeiture of rights to mistreated animal upon conviction --

Placement of animal -- Additional obligations or educational requirements.

- (1)(a) In addition to and not in lieu of any other sentence it may impose, a court may, prior to judgment, require a defendant convicted under Section 76-9-301, 76-9-301.1, 76-9-301.3, 76-9-301.7, 76-9-301.8, or 76-9-304 to forfeit any rights in the animal

235 subjected to the violation, and to repay the reasonable costs incurred in caring for
236 each animal associated with the criminal proceeding by a government agency, animal
237 shelter, or an agent of the government agency or animal shelter.

238 (b) If a government agency, an animal shelter, or an agent of the government agency or
239 animal shelter provides care and treatment for impounded or seized animals, a court
240 that orders a convicted defendant to repay reasonable costs of care may not reduce
241 the incurred cost amount based on the government agency or animal shelter having
242 received donations or other funding for the care.

243 (2)(a) When the court orders the defendant's rights in the animal to be forfeited, the court
244 may further order that those rights be given over to an appropriate person or agency
245 demonstrating a willingness to accept and care for the animal or to the county or an
246 appropriate animal care agency for further disposition in accordance with accepted
247 practices for humane treatment of animals. The court may not transfer the defendant's
248 rights in the animal to any person who resides with the defendant.

249 (b) This Subsection (2) does not limit the right of the person or agency to whom rights
250 are granted to resell or otherwise make disposition of the animal.

251 (c) A transfer of rights under this section constitutes a transfer of ownership.

252 (d) The court shall require a person to whom rights are granted to execute an agreement
253 to provide minimum care to the animal. The agreement must indicate that allowing
254 the former owner to possess the animal constitutes encouraging animal abuse, which
255 is a crime under Section 76-9-305.5.

256 (3) In addition to and not in lieu of any other sentence it may impose, a court may order the
257 owner or person having custody of an animal to repay any reasonable costs incurred by
258 the following entities for providing minimum care to the animal that are not included in
259 a repayment order issued under Subsection (1):

260 (a) a government agency or its agent; or

261 (b) an animal shelter or its agent.

262 (4) A court may order a person convicted under Section 76-9-301, 76-9-301.1, 76-9-301.3,
263 76-9-301.7, 76-9-301.8, or 76-9-304 to participate in available animal cruelty prevention
264 programs or education programs, or both, or to obtain psychological counseling for
265 treatment of mental health disorders that, in the court's judgment, contributed to the
266 commission of the crime. The defendant shall bear any costs incurred for participation in
267 counseling or treatment programs ordered by the court.

268 Section 9. **Effective Date.**

269 This bill takes effect on May 7, 2025.