

Verona Mauga proposes the following substitute bill:

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

77-11a-206, Utah Code Annotated 1953

77-11a-207, Utah Code Annotated 1953

78B-6-2701, Utah Code Annotated 1953

78B-6-2702, Utah Code Annotated 1953

78B-6-2703, 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 under Section 77-11a-206, Section 77-11a-207, or Title 78B, Chapter 6, Part 27, Petition for Forfeiture of Animal Held in Connection with a Crime or Abuse; 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 auction or destroyed.

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

(4) An animal that is associated with a crime or an animal abuse charge may be eligible for forfeiture or release under Section 77-11a-207 or Title 78B, Chapter 6, Part 27, Petition for Forfeiture of Animal Held in Connection with a Crime or Abuse.

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

76-9-305.5 . Encouraging animal abuse.

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

(a) obtains a previously abused, neglected, or abandoned animal pursuant to Section 77-11a-207 or Title 78B, Chapter 6, Part 27, Petition for Forfeiture of Animal Held in Connection with a Crime or Abuse; and

(b) knowingly allows the person from whom the animal was forfeited to possess the animal.

(2) Encouraging animal abuse is a class C misdemeanor.

Section 4. Section **77-11a-206** is enacted to read:

77-11a-206 . 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 5. Section 77-11a-207 is enacted to read:

77-11a-207 . Forfeiture of rights to mistreated animal upon conviction --

Placement of animal -- Additional obligations or educational requirements.

(1) As used in this section, "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.

(2)(a) In addition to and not in lieu of any other sentence it may impose, a court may, prior to sentencing, require an animal owner who is 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 subjected to the violation, and to repay the reasonable costs incurred in caring for each animal associated with the criminal proceeding by a government agency, animal shelter, or an agent of the government agency or animal shelter.

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

(3)(a)(i) When a court orders an animal owner's rights in the animal to be forfeited as part of a criminal case, or pursuant to Title 78B, Chapter 6, Part 27, Petition for Forfeiture of Animal Held in Connection with a Crime or Abuse, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the county or

an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals.

(ii) The court may not transfer the animal owner's rights in the animal to any person who resides with the animal owner.

(b) This Subsection (3) does not limit the right of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal.

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

(d)(i) The court shall order that a person to whom rights are granted be required to execute an agreement to provide minimum care to the animal.

(ii) The agreement shall indicate that allowing the former owner to possess the animal constitutes encouraging animal abuse, which is a crime under Section 76-9-305.5.

(4)(a) In addition to and not in lieu of any other sentence it may impose as part of a criminal case, a court may order:

(i) the animal owner or person having custody of an animal to repay any reasonable costs incurred by the following entities for providing minimum care to the animal that are not included in a repayment order issued under Subsection (2):

(A) a government agency or the government agency's agent; or

(B) an animal shelter or the animal shelter's agent; and

(ii) an individual 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 participate in animal cruelty prevention or education programs, if available, and to obtain an assessment and complete appropriate treatment for any mental health disorder that contributed to the commission of the crime.

(b) The animal owner shall bear any costs incurred for participation in programs or treatment ordered by the court under Subsection (4)(a)(ii).

Section 6. Section **78B-6-2701** is enacted to read:

Part 27. Petition for Forfeiture of Animal Held in Connection with a Crime or Abuse

78B-6-2701 . Definitions.

As used in this part:

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

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

(b) "Animal shelter" includes:

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

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

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

(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 7. Section **78B-6-2702** is enacted to read:

78B-6-2702 . Forfeiture of animal before disposition of criminal action -- Petition -- Notice -- Hearing.

(1)(a) If an animal is impounded under Section 76-9-301.6 or 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, a person may bring a cause of action in court by filing a petition, requesting that the court issue an order that the owner forfeit ownership of an animal or animals before the final disposition of the criminal action.

(b) A petition may be filed and heard regardless of whether the specific animal is the subject of a criminal charge or named in the charging instrument in the criminal action.

(c) As part of the petition, the petitioner shall include:

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

(ii) the name of the owner or reputed owner of the impounded animal or animals;

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

(iv) a statement verifying that the petitioner has provided a copy of the petition to the prosecuting attorney.

(d) The petitioner shall serve the owner and any other potential claimant pursuant to Rule 4 of the Utah Rules of Civil Procedure.

(2) Upon receipt of a petition and proof of service, the court shall set a hearing on the

petition as soon as is practicable.

(3)(a) At a hearing conducted pursuant to the requirements of this section, the petitioner shall have the burden of establishing, by a preponderance of the evidence, that:

(i) the animal was subjected to a violation of, or seized in connection with another animal that 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 animal owner should forfeit the animal owner's ownership of the animal.

(b) If the court finds by a preponderance of the evidence that the requirements of Subsection (3)(a) have been met, the court:

(i) shall order immediate forfeiture of the animal to the petitioner, a person designated by the petition, or to an appropriate person or agency; and

(ii) may order any relief consistent with Subsection 77-11a-207(3).

Section 8. Section **78B-6-2703** is enacted to read:

78B-6-2703 . Placement of forfeited animal.

(1) If an animal is forfeited according to the provisions of this part, the person or animal shelter to which the animal was forfeited may place the animal with a new owner.

(2) Placement preference may be given to any person who had prior contact with the animal, including family members or friends of the former owner whom the court or the person or animal agency having custody of the animal determines are capable of providing necessary, adequate, and appropriate levels of care for the animal.

(3) Notwithstanding any other provision of this section, an animal may not be placed 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 of the animal.

(4)(a) As a condition of placement, the new owner shall execute an agreement to provide minimum care to the animal.

(b) The agreement must contain notice that allowing the former owner to possess the animal constitutes encouraging animal abuse, which is a crime under Section 76-9-305.5.

Section 9. **Effective Date.**

This bill takes effect on May 7, 2025.