

Amendment No. 821

Assembly Amendment to Senate Bill No. 342 First Reprint	(BDR 14-748)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the unfunded mandate not requested by the affected local government to S.B. 342 R1 (§§ 1, 7).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

VG/BAW



Date: 5/21/2019

S.B. No. 342—Revises provisions relating to animals. (BDR 14-748)



SENATE BILL NO. 342—SENATORS SCHEIBLE, PARKS,
SPEARMAN; DONDERO LOOP AND D. HARRIS

MARCH 18, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to animals. (BDR 14-748)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.CONTAINS UNFUNDED MANDATE (§§ 1, 7)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to animals; revising provisions relating to an animal impounded by a county, city or other local government under certain circumstances; providing for a hearing to determine whether a person is the owner of an animal and whether the person is fit and able to provide adequate care and shelter for that animal; requiring and authorizing a court to issue certain orders after such a hearing; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a person is lawfully arrested and detained in a county for more than 7 days, and if the county impounds any animal owned or possessed by the person, the county must: (1) notify the person of the impoundment and request that the person provide to the county the name of any person who is authorized to care for the animal; (2) transfer, under certain circumstances, the animal to the person who is so authorized; and (3) if there is no such person, allow another person to care for the animal temporarily and, with the consent of the person who is arrested and detained, adopt the animal. Existing law also authorizes the county to bring an appropriate legal action to recover the reasonable cost of care and shelter of the animal under certain circumstances. Finally, existing law defines the term "animal" for the purpose of an animal impounded by a county under such circumstances. (NRS 171.1539) **Section 1** of this bill provides that if a person is lawfully arrested and detained in a county, city or other local government, other than for a violation of certain acts which constitute engaging in cruelty to animals, and the county impounds any animal owned or possessed by the person, the county may, within 10 days after the arrest: (1) allow another person who is able to provide adequate care and shelter to care for the animal temporarily; or (2) take possession of the animal. **Section 1** also requires the State to create and maintain a written notice which: (1) informs the person that an animal owned or possessed by the person may have been impounded; (2) provides the current contact information of an animal shelter in each county, city or other local government responsible for impounding the animal; (3) is made available in certain languages; (4) is provided to each county or city jail or detention facility; and (5) must be posted in a conspicuous place in each county or city jail or detention facility. Additionally, section 1 revises the definition of the term "animal" to include an animal which is maintained as a pet whether or not the animal is domesticated.

Existing law requires a peace officer or animal control officer to take possession of an animal being treated cruelly. Existing law also requires an officer to provide certain notices to the owner of an animal of which the officer took possession. Existing law authorizes such an officer to impose a lien on the animal for the reasonable cost of care and shelter of the animal. (NRS 574.055) **Sections 3-9** of this bill establish provisions relating to an animal impounded incident to the lawful arrest of a person in violation of provisions relating to an act which constitutes cruelty to animals. **Section 7** of this bill requires ~~[a prosecutor to provide]~~ notice **be provided** to such a person of his or her right to request a hearing ~~[within 2 days after the arrest]~~ to determine whether the person is the owner of the animal and whether the person is able or fit to provide adequate care and shelter to the animal. **Section 7 requires a person to request such a hearing within 5 days after receipt of the notice.** **Section 7** requires the court hold such a hearing within 15 judicial days after receiving notice of the request. **Section 8** of this bill requires the court to order, under certain circumstances, another person to take possession of the animal. If the court determines that the person detained is not the owner of the animal or is not able or fit to provide adequate care and shelter of the animal, **section 8:** (1) requires the court to order the person not to own or possess the animal and to order the transfer of the animal; and (2) authorizes the court to order the impoundment of certain other animals or enjoin the person from owning or possessing other animals. **Section 9** of this bill authorizes: (1) the county, city or other local government or animal shelter to bring an appropriate legal action to recover the reasonable cost of the shelter and care of the animal; and (2) the court to order a later and separate hearing for such an action.

Section 11 of this bill revises the notices provided to the owner of an animal of which an officer took possession to include notice of the right of the owner to request a hearing pursuant to section 7 to determine ownership of the animal and whether the owner is able or fit to provide adequate care and shelter to the animal.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 171.1539 is hereby amended to read as follows:

171.1539 1. ~~[[§]]~~ *Except as otherwise provided in sections 3 to 9, inclusive, of this act, if* a person is lawfully arrested and detained ~~[in a county for more than 7 days.]~~ and ~~[[§]]~~ any animal owned or possessed by the person is impounded by the county, *city or other local government in which the person is arrested at the time of the arrest or* after the arrest, ~~[the county must notify the person of the impoundment of the animal and request that]~~ the person *may* provide ~~[to the county]~~ the name of any person who is authorized to care for the animal. The county, *city or other local government or animal shelter* must transfer the animal to such a person if the county, *city or other local government* determines that the person is able to provide adequate care and shelter to the animal. If ~~[there is]~~ *within 10 days after the county, city or other local government impounds the animal* no such authorized person ~~[who]~~ is able to provide adequate care and shelter to the animal, the county ~~[may allow]~~, *city or other local government or animal shelter:*

(a) *May allow* another person who is able to provide adequate care and shelter to care for the animal temporarily ~~[and, with the consent of the person who is arrested and detained, allow the other person to adopt the animal.]; or~~

(b) *May take possession of the animal.*

2. ~~[[§]]~~ *The State shall create and maintain a written notice which must:*

(a) *Inform the person or the public that an animal, owned or possessed by a person who has been arrested and detained, may have been impounded;*

(b) *Include the current contact information of each animal shelter in each county, city or other local government responsible for:*

(1) *Impounding an animal; and*

(2) *Providing care and shelter to an animal;*

(c) *Be available in English, Spanish, Tagalog and Standard Chinese;*
(d) *Be provided to each county or city jail or detention facility; and*
(e) *Be posted in a conspicuous place in each county or city jail or detention facility.*

3. *A person lawfully arrested and detained:*

(a) *May make a reasonable number of completed telephone calls from a county or city jail or detention facility for the purpose of locating an animal impounded pursuant to this section; and*

(b) *Shall not be charged for each completed call to an animal shelter listed in the written notice posted pursuant to subsection 2.*

4. *If a person is convicted of the crime for which he or she was lawfully arrested, the county, city or other local government or animal shelter may by appropriate legal action recover the reasonable cost of any care and shelter furnished to the animal by the county, city or other local government or animal shelter, including, without limitation, imposing a lien on the animal for the cost of such care and shelter.*

~~3.3~~ 5. *The board of county commissioners of each county, if its jurisdiction to enact and enforce ordinances relating to animals is not limited by an interlocal agreement, may adopt an ordinance which provides for time ~~in addition to the time set forth in subsection 1~~ of not less than 5 days to a person lawfully arrested or detained for the purpose of providing the person a reasonable opportunity to locate another person to take possession of an animal. Such a reasonable opportunity is provided upon assistance from a county, city or other local government or an animal shelter.*

6. *The city council or other governing body of each incorporated city, whether organized under general law or special charter, if its jurisdiction to enact and enforce ordinances relating to animals is not limited by an interlocal agreement, may adopt an ordinance which provides for time of not less than 5 days to a person lawfully arrested or detained for the purpose of providing the person a reasonable opportunity to locate another person to take possession of an animal. Such a reasonable opportunity is provided upon assistance from a county, city or other local government or an animal shelter.*

7. As used in this section ~~["animal"]~~ :

(a) *"Animal" means any dog, cat, horse, ~~for~~ other domesticated animal ~~or~~ undomesticated animal which is maintained as a pet. The term:*

~~(a)~~ (1) *Includes any chicken, pig, rabbit or other ~~domesticated~~ animal which is maintained as a pet ~~or~~*

~~(b)~~ *whether or not the animal is domesticated.*

(2) *Except as otherwise provided in ~~paragraph (a),~~ subparagraph 1, does not include any cattle, sheep, goats, swine or poultry.*

(b) *"Animal shelter" has the meaning ascribed to it in NRS 574.240.*

Sec. 2. Chapter 574 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 9, inclusive, of this act.

Sec. 3. *As used in sections 3 to 9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4, 5 and 6 of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Animal" has the meaning ascribed to it in NRS 171.1539.*

Sec. 5. *"Animal rescue organization" has the meaning ascribed to it in NRS 574.205.*

Sec. 6. *"Animal shelter" has the meaning ascribed to it in NRS 574.240.*

Sec. 7. 1. *If a person is lawfully arrested for a violation of NRS 574.070 or 574.100 and if an animal owned or possessed by the person is impounded by the county, city or other local government in connection with the arrest, ~~the~~*

~~prosecutor shall notify~~ the person must be notified in accordance with the provisions of subsection 2 of NRS 574.055 and be notified of his or her right to request a hearing within 5 days after receipt of the notice to determine whether the person is the owner of the animal and whether the person is able to provide adequate care and shelter to the animal. ~~[Such notice]~~ The person must be provided within 2 judicial days after the arrest and state that the person has request a hearing pursuant to this subsection with 5 days after receipt of the notice ~~[to request a hearing.]~~ pursuant to this subsection.

2. If a person who is lawfully arrested and detained for a violation of NRS 574.070 or 574.100 does not request a hearing pursuant to subsection 1, or an owner of the animal has not been identified within 5 days of arrest, the county, city or other local government shall transfer ownership of the animal to an animal rescue organization, animal shelter or another person who is able to provide adequate care and shelter to the animal.

3. If the court receives a timely request pursuant to subsection 1, the court shall hold a hearing within 15 judicial days after receipt of the request to determine whether the person is the owner of an animal and whether the person is able and fit to provide adequate care and shelter to the animal.

4. For the purpose of conducting a hearing pursuant to this section, the court may consider:

(a) Testimony of the peace officer or animal control officer who took possession of or impounded the animal or other witnesses concerning the conditions under which the animal was owned or kept;

(b) Testimony and evidence related to veterinary care provided to the animal, including, without limitation, the degree or type of care provided to the animal;

(c) Expert testimony as to community standards for the reasonable care of a similar animal;

(d) Testimony of witnesses concerning the history of treatment of the animal or any other animal owned or possessed by the person;

(e) Prior arrests or convictions related to subjecting an animal to an act of cruelty in violation of NRS 574.070 or 574.100; and

(f) Any other evidence which the court determines is relevant.

Sec. 8. 1. If the court determines by clear and convincing evidence that the person detained is the owner of the animal and the person is able and fit to provide adequate care and shelter for the animal, the court shall order the person or the designee of the person to take possession of the animal not later than 3 days after the issuance of the order.

2. If the court determines that there is not clear and convincing evidence that the person arrested is the owner of the animal or that the person detained is not able and fit to provide adequate care and shelter for the animal, the court shall order:

(a) The person not to own or possess the animal; and

(b) The county, city or other local government to transfer the animal to an animal rescue organization, animal shelter or another person who is able to provide adequate care and shelter to the animal.

3. If the court makes a determination pursuant to subsection 2, the court may:

(a) Order the impoundment of any other animals owned or possessed by the person arrested; or

(b) Enjoin the person from owning or possessing any animal.

Sec. 9. If the court makes a determination pursuant to subsection 2 of section 8 of this act, the county, city or other local government or animal shelter may by appropriate action recover the reasonable cost of any care and shelter

1 *furnished to the animal. The court may order a later and separate hearing to*
2 *make a determination about such costs.*

3 **Sec. 10.** NRS 574.050 is hereby amended to read as follows:

4 574.050 As used in NRS 574.050 to 574.200, inclusive ~~§~~, *and sections 3 to*
5 *9, inclusive, of this act:*

6 1. "Animal" does not include the human race, but includes every other living
7 creature.

8 2. "First responder" means a person who has successfully completed the
9 national standard course for first responders.

10 3. "Police animal" means an animal which is owned or used by a state or local
11 governmental agency and which is used by a peace officer in performing his or her
12 duties as a peace officer.

13 4. "Torture" or "cruelty" includes every act, omission or neglect, whereby
14 unjustifiable physical pain, suffering or death is caused or permitted.

15 **Sec. 11.** NRS 574.055 is hereby amended to read as follows:

16 574.055 *Except as otherwise provided in sections 3 to 9, inclusive, of this*
17 *act:*

18 1. Any peace officer or animal control officer shall, upon discovering any
19 animal which is being treated cruelly, take possession of it and provide it with
20 shelter and care or, upon obtaining written permission from the owner of the
21 animal, may destroy it in a humane manner.

22 2. If an officer takes possession of an animal, the officer shall give to the
23 owner, if the owner can be found, a notice containing a written statement of the
24 reasons for the taking, the location where the animal will be cared for and sheltered,
25 ~~and~~ the fact that there is a limited lien on the animal for the cost of shelter and
26 care ~~§~~ *and notice of the right of the owner to request a hearing pursuant to*
27 *section 7 of this act within 5 days after receipt of the notice.* If the owner is not
28 present at the taking and the officer cannot find the owner after a reasonable search,
29 the officer shall post the notice on the property from which the officer takes the
30 animal. If the identity and address of the owner are later determined, the notice
31 must be mailed to the owner immediately after the determination is made.

32 3. An officer who takes possession of an animal pursuant to this section has a
33 lien on the animal for the reasonable cost of care and shelter furnished to the animal
34 and, if applicable, for its humane destruction. The lien does not extend to the cost of
35 care and shelter for more than 2 weeks.

36 4. Upon proof that the owner has been notified in accordance with the
37 provisions of subsection 2 or, if the owner has not been found or identified, that the
38 required notice has been posted on the property where the animal was found, a
39 court of competent jurisdiction may, after providing an opportunity for a hearing,
40 order the animal sold at auction, humanely destroyed or continued in the care of the
41 officer for such disposition as the officer sees fit.

42 5. An officer who seizes an animal pursuant to this section is not liable for
43 any action arising out of the taking or humane destruction of the animal.

44 6. The provisions of this section do not apply to any animal which is located
45 on land being employed for an agricultural use as defined in NRS 361A.030 unless
46 the owner of the animal or the person charged with the care of the animal is in
47 violation of paragraph (c) of subsection 1 of NRS 574.100 and the impoundment is
48 accomplished with the concurrence and supervision of the sheriff or the sheriff's
49 designee, a licensed veterinarian and the district brand inspector or the district
50 brand inspector's designee. In such a case, the sheriff shall direct that the
51 impoundment occur not later than 48 hours after the veterinarian determines that a
52 violation of paragraph (c) of subsection 1 of NRS 574.100 exists.

1 7. The owner of an animal impounded in accordance with the provisions of
2 subsection 6 must, before the animal is released to the owner's custody, pay the
3 charges approved by the sheriff as reasonably related to the impoundment,
4 including the charges for the animal's food and water. If the owner is unable or
5 refuses to pay the charges, the State Department of Agriculture shall sell the
6 animal. The Department shall pay to the owner the proceeds of the sale remaining
7 after deducting the charges reasonably related to the impoundment.

8 **Sec. 12.** The provisions of NRS 354.599 do not apply to any additional
9 expenses of a local government that are related to the provisions of this act.