

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, agency or facility under certain circumstances; providing for a hearing to determine whether a person is the owner of an animal and whether the person is 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. (NRS 171.1539) **Section 1** of this bill provides that if a person is lawfully arrested and detained in a county, 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 15 days after the arrest: (1) allow the person to pay in advance for the care and shelter of the animal based on increments of 30 days; (2) if the person is homeless and makes a request, provide not less than 30 days of care and shelter to



the animal; (3) allow another person who is able to provide adequate care and shelter to care for the animal temporarily; or (4) take possession of the animal. **Section 1** also requires the county to provide a written notice directly to the person or post such notice in a conspicuous place in each detention facility which: (1) informs the person that an animal owned or possessed by the person may have been impounded; (2) provides the telephone number of the county, facility or agency responsible for impounding the animal; and (3) is made available in certain languages.

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 and detainment of a person in violation of provisions relating to an act which constitutes cruelty to animals. **Section 7** of this bill authorizes such a person to request a hearing within 15 days after the arrest and detainment 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. **Section 7** requires the court hold such a hearing within 15 days after receiving notice of the request. **Section 8** of this bill requires the court to order, under certain circumstances: (1) the person detained to pay certain costs for the care and shelter of the animal or to take possession of the animal; or (2) 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 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, agency or facility 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.

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. ~~HH~~ *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 ~~{if}~~ any animal owned or possessed by the person is impounded by the county *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 must transfer the animal to such a person if the county determines that the person is able to provide adequate care and shelter to the animal. If ~~{there is}~~ *within 15 days after the county impounds the animal* no *such* authorized person ~~{who}~~ is able to provide adequate care and shelter to the animal, the county ~~{may allow}~~ :



(a) May allow the person detained to pay in advance to the county the cost of care and shelter of the animal calculated based on increments of 30 days;

(b) If the person detained is homeless and if the person makes a request within 15 days after being arrested and detained, shall provide care and shelter for the animal for not less than 30 days at no cost to the person;

(c) 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

(d) May take possession of the animal.

2. ~~HH~~ The county shall provide written notice to a person arrested and detained pursuant to subsection 1 or post written notice in a conspicuous place in each detention facility. Such a notice 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 telephone number of the county, agency or facility responsible for:

(1) Impounding the animal; and

(2) Providing care and shelter to the animal; and

(c) Be available in English, Spanish, Tagalog and Standard Chinese.

3. Except as otherwise provided in paragraph (b) of subsection 1 if a person is convicted of the crime for which he or she was lawfully arrested, the county, agency or facility may by appropriate legal action recover the reasonable cost of any care and shelter furnished to the animal by the county, agency or facility, including, without limitation, imposing a lien on the animal for the cost of such care and shelter.

~~3-1~~ 4. As used in this section, "animal" means any dog, cat, horse or other domesticated animal. The term:

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

(b) Except as otherwise provided in paragraph (a), does not include any cattle, sheep, goats, swine or poultry.

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.



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

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

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

7 *Sec. 7. 1. If a person is lawfully arrested and detained for a*
8 *violation of NRS 574.100 and if an animal owned or possessed by*
9 *the person is impounded by the county, agency or facility in*
10 *connection with the arrest, the person may request a hearing*
11 *within 15 days after the arrest to determine whether the person is*
12 *the owner of the animal and whether the person is able to provide*
13 *adequate care and shelter to the animal.*

14 *2. If a person who is lawfully arrested and detained for a*
15 *violation of NRS 574.100 does not request a hearing pursuant to*
16 *subsection 1, or an owner of the animal has not been identified,*
17 *the court shall order the county to transfer the animal to an*
18 *animal rescue organization, animal shelter or another person who*
19 *is able to provide adequate care and shelter to the animal.*

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

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

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

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

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

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

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

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

42 *Sec. 8. 1. If the court determines by clear and convincing*
43 *evidence that the person detained is the owner of the animal and*
44 *the person is able to provide adequate care and shelter for the*
45 *animal, the court shall order:*



(a) The person to pay in advance to the county the cost of care and shelter of the animal calculated based on increments of 30 days;

(b) The person to take possession of the animal not later than 7 days after the issuance of the order; or

(c) Another person who is able to provide adequate care and shelter for the animal to take possession of the animal not later than 7 days after the issuance of the order.

2. If the court determines that there is not clear and convincing evidence that the person detained is the owner of the animal or that the person detained is not able 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, agency or facility 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 detained; 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, agency or facility may by appropriate action recover the reasonable cost of any care and shelter furnished to the animal. The court may order a later and separate hearing to make a determination about such costs.

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

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

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

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

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

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

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

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

1. Any peace officer or animal control officer shall, upon discovering any animal which is being treated cruelly, take possession of it and provide it with shelter and care or, upon



1 obtaining written permission from the owner of the animal, may
2 destroy it in a humane manner.

3 2. If an officer takes possession of an animal, the officer shall
4 give to the owner, if the owner can be found, a notice containing a
5 written statement of the reasons for the taking, the location where
6 the animal will be cared for and sheltered, and the fact that there is a
7 limited lien on the animal for the cost of shelter and care. If the
8 owner is not present at the taking and the officer cannot find the
9 owner after a reasonable search, the officer shall post the notice on
10 the property from which the officer takes the animal. If the identity
11 and address of the owner are later determined, the notice must be
12 mailed to the owner immediately after the determination is made.

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

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

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

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

39 7. The owner of an animal impounded in accordance with the
40 provisions of subsection 6 must, before the animal is released to the
41 owner's custody, pay the charges approved by the sheriff as
42 reasonably related to the impoundment, including the charges for
43 the animal's food and water. If the owner is unable or refuses to pay
44 the charges, the State Department of Agriculture shall sell the
45 animal. The Department shall pay to the owner the proceeds of the



1 sale remaining after deducting the charges reasonably related to the
2 impoundment.

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

