

ASSEMBLY BILL NO. 170—ASSEMBLYWOMAN MARTINEZ

FEBRUARY 23, 2021

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing animals.
(BDR 14-762)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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; requiring certain notices of a right to request a hearing to be provided upon the lawful issuance of a citation or arrest for certain offenses relating to cruelty to animals; providing for a hearing to make certain determinations relating to an impounded animal; authorizing an animal rescue organization, an animal shelter and certain other persons to sell at auction, humanely destroy or continue to care for certain animals; requiring the State Department of Agriculture to create and maintain certain written notices relating to impounded animals; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

If a person is lawfully arrested for instigating or attending fights between animals or for torturing, overdriving, injuring or abandoning an animal and an animal owned or possessed by the person is impounded by the county, city or other local government in connection with the arrest, existing law requires certain notices to be provided to the person, including notice of his or her right to request a hearing 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. Existing law requires a person to request such a hearing within 5 days after receipt of the notice. If the person makes such a request, existing law requires the court to hold such a hearing within 15 judicial days after receiving notice of the request. (NRS 574.203) **Section 3** of this bill requires that a notice of the right to request a hearing also be provided if the person is lawfully issued a citation for such violations and clarifies that the hearing occurs in a court of competent jurisdiction. **Section 2** of this bill similarly makes a conforming change to clarify that the hearing occurs in a court of competent jurisdiction. Furthermore, **section 3** provides that the hearing is to determine by a preponderance of the evidence whether the person who is issued a



citation or arrested for the violations: (1) is the owner of the impounded animal; (2) committed the applicable violation; and (3) if applicable, is able and fit to provide adequate care and shelter to the animal.

Existing law provides that, if a person who has received a notice of his or her right to request a hearing does not request a hearing or the owner of the impounded animal has not been identified within 5 days of the 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. (NRS 574.203) **Section 3** authorizes the animal rescue organization, animal shelter or person to whom the ownership of the animal is transferred to sell the animal at auction, humanely destroy the animal or continue to care for the animal, as the organization, shelter or person sees fit.

Existing law 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 under certain circumstances, 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. Existing law requires the State to create and maintain a written notice which: (1) informs the person or the public 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) is posted in a conspicuous place in each county or city jail or detention facility. (NRS 171.1539) **Section 1** of this bill requires the State Department of Agriculture to create and maintain this written notice.

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 NRS 574.201 to 574.204, inclusive, if a person is lawfully arrested and detained 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 person may provide 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 within 10 days after the county, city or other local government impounds the animal no such authorized person is able to provide adequate care and shelter to the animal, the county, 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; or

(b) May take possession of the animal.



2. The State *Department of Agriculture* 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.

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 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:

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

(1) Includes any chicken, pig, rabbit or other animal which is maintained as a pet whether or not the animal is domesticated.

(2) Except as otherwise provided in 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. NRS 574.055 is hereby amended to read as follows:

574.055 Except as otherwise provided in NRS 574.201 to 574.204, inclusive:

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

2. If an officer takes possession of an animal, the officer shall give to the owner, if the owner can be found, a notice containing a written statement of the reasons for the taking, the location where the animal will be cared for and sheltered, the fact that there is a limited lien on the animal for the cost of shelter and care and notice of the right of the owner to request a hearing *in a court of competent jurisdiction* pursuant to NRS 574.203 within 5 days after receipt of the notice. If the owner is not present at the taking and the officer cannot find the owner after a reasonable search, the officer shall post the notice on the property from which the officer takes the animal. If the identity and address of the owner are later determined, the notice must be mailed to the owner immediately after the determination is made.

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

4. Upon proof that the owner has been notified in accordance with the provisions of subsection 2 or, if the owner has not been found or identified, that the required notice has been posted on the property where the animal was found, a court of competent jurisdiction may, after providing an opportunity for a hearing, order



1 the animal sold at auction, humanely destroyed or continued in the
2 care of the officer for such disposition as the officer sees fit.

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

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

17 7. The owner of an animal impounded in accordance with the
18 provisions of subsection 6 must, before the animal is released to the
19 owner's custody, pay the charges approved by the sheriff as
20 reasonably related to the impoundment, including the charges for
21 the animal's food and water. If the owner is unable or refuses to pay
22 the charges, the State Department of Agriculture shall sell the
23 animal. The Department shall pay to the owner the proceeds of
24 the sale remaining after deducting the charges reasonably related to
25 the impoundment.

26 **Sec. 3.** NRS 574.203 is hereby amended to read as follows:

27 574.203 1. If a person is lawfully *issued a citation or*
28 arrested for a violation of NRS 574.070 or 574.100 and if an animal
29 owned or possessed by the person is impounded by the county, city
30 or other local government in connection with the *citation or* arrest,
31 the person must be notified in accordance with the provisions of
32 subsection 2 of NRS 574.055 and be notified of his or her right to
33 request a hearing *in a court of competent jurisdiction* within 5 days
34 after receipt of the notice to determine *by a preponderance of the*
35 *evidence:*

36 *(a) If the person is lawfully issued a citation or arrested for a*
37 *violation of NRS 574.070, whether the person ~~is~~:*

38 *(1) Is the owner of the animal ; and*

39 *(2) Committed a violation of NRS 574.070.*

40 *(b) If the person is lawfully issued a citation or arrested for a*
41 *violation of NRS 574.100, whether the person ~~is~~:*

42 *(1) Is the owner of the animal;*

43 *(2) Committed a violation of NRS 574.100; and*

44 *(3) Is able and fit to provide adequate care and shelter to the*
45 animal.



1 ↪ The person must request a hearing pursuant to this subsection
2 within 5 days after receipt of the notice pursuant to this subsection.

3 2. If a person who is lawfully *issued a citation or* arrested ~~and~~
4 ~~detained~~ for a violation of NRS 574.070 or 574.100 does not
5 request a hearing pursuant to subsection 1, or an owner of the
6 animal has not been identified within 5 days of *the issuance of the*
7 *citation or* arrest, the county, city or other local government shall
8 transfer ownership of the animal to an animal rescue organization,
9 animal shelter or another person who is able to provide adequate
10 care and shelter to the animal. *The animal rescue organization,*
11 *animal shelter or person to whom the ownership of an animal is*
12 *transferred pursuant to this subsection may sell the animal at*
13 *auction, humanely destroy the animal or continue caring for the*
14 *animal, as the animal rescue organization, animal shelter or*
15 *person sees fit.*

16 3. If the court receives a timely request *for a hearing* pursuant
17 to subsection 1, the court shall hold ~~at~~ *the* hearing within 15
18 judicial days after receipt of the request . ~~to~~ *If the person who*
19 *requested the hearing is lawfully issued a citation or arrested for:*

20 (a) *A violation of NRS 574.070, the court shall determine by a*
21 *preponderance of the evidence* whether the person ~~is~~ :

22 (1) *Is* the owner of ~~an~~ *the* animal ; and ~~whether the person~~
23 ~~is~~

24 (2) *Committed a violation of NRS 574.070.*

25 (b) *A violation of NRS 574.100, the court shall determine by a*
26 *preponderance of the evidence whether the person:*

27 (1) *Is the owner of the animal;*

28 (2) *Committed a violation of NRS 574.100; and*

29 (3) *Is* able and fit to provide adequate care and shelter to the
30 animal.

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

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

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

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

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



- 1 (e) Prior arrests or convictions related to subjecting an animal to
- 2 an act of cruelty in violation of NRS 574.070 or 574.100; and
- 3 (f) Any other evidence which the court determines is relevant.

