
SENATE COMMITTEE ON APPROPRIATIONS

Senator Ricardo Lara, Chair
2015 - 2016 Regular Session

AB 2278 (Linder) - Animal control: seizure of animals: costs

Version: May 23, 2016

Policy Vote: PUB. S. 7 - 0

Urgency: No

Mandate: Yes

Hearing Date: August 1, 2016

Consultant: Jolie Onodera

This bill meets the criteria for referral to the Suspense File.

Bill Summary: AB 2278 would clarify and revise procedures related to the seizure or impoundment of animals, including but not limited to the notification to animal owners regarding hearings and the payment of costs when an animal is seized or impounded, as specified.

Fiscal Impact:

- Recoverable local agency costs: Potentially significant increase in non-reimbursable local agency costs (Local Funds) for the seizure, impoundment, care and treatment of animals, and the sending of statements of charges, to be reimbursed by the owners of the seized and impounded animals.
- Potentially unrecoverable local agency costs: Potential increase in local agency costs, potentially state reimbursable (General Fund) for the seizure, care and treatment of animals remaining impounded beyond 14 days from the date of seizure for (1) the non-payment of charges, which is extended to 14 days from service of the notice of charges; (2) the payment of charges but inability of the owner to guarantee care for the animal as required for release of the animal to the owner; and, (3) the extended period of impoundment and care pending express approval of the court for animals seized pursuant to a search warrant.
- Notice of charges process: Although the cost of sending the statements of charges is recoverable from the owners, the bill does not specifically provide for the recovery of costs to establish the process of noticing, including the workload required to prepare the initial and subsequent notices. As a result, this provision could be determined to create a higher level of service on local agencies, potentially requiring reimbursement from the state (General Fund) for these additional administrative costs.

Background: Under existing law, an owner of any animal who permits the animal to be in any location without proper care and attention is guilty of a misdemeanor. (Penal Code (PC) § 597(a)(1).)

Existing law provides that a peace officer, humane officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer is required to immediately seize the animal, and prior to the commencement of any criminal proceedings, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure

hearing to determine the validity of the seizure or impoundment, or both. (PC § 597.1(a)(1), (f).)

Under existing law, if an animal is properly seized or pursuant to a search warrant, the owner or keeper is personally liable to the seizing agency for the cost of the seizure and care of the animal. Further, if the charges for the seizure or impoundment and any other charges permitted are not paid within 14 days of the seizure, or if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the animal, the animal is deemed to have been abandoned and may be disposed of by the seizing agency. (PC § 597.1 (h).)

Proposed Law: This bill would both clarify and revise procedures related to the seizure or impoundment of animals, including but not limited to the notification to animal owners regarding hearings and the payment of costs when an animal is seized or impounded. Specifically, this bill:

- Requires a seizing agency to provide care and treatment for a seized animal until the animal is placed, returned to the owner, or euthanized. *[expands upon existing law, which requires care and treatment until the animal is deemed to be in suitable condition to be returned to the owner]*
- Specifies that the owner or keeper of the animal is liable to the seizing agency or impounding agency for the entire cost of the seizure and impoundment of the animal, and care of the animal, including costs associated with preparing and posting notices and sending statements of charges. *[existing law only references seizing agency and does not include impounding agency]*
- Requires the seizing agency to present the owner with a “notice of charges,” a statement listing all accrued charges for the seizure, impoundment, and care of the animal, either at the postseizure hearing, or by personal service, first class mail, or electronic mail, as specified. *[a new requirement]*
- Requires the seizing agency to include in the statement of charges that the animal will be deemed abandoned if charges are not paid within 14 days of service of the notice of charges, and that the payment of fees does not guarantee the release of the animal, but does allow the owner to retain an ownership interest in the animal. *[a new requirement]*
- Requires the impounding agency to continue to send subsequent notices of additional charges for care of the animal, not less than 14 days but not more than 21 days from the date the last statement was presented, for animals that remain impounded after the initial charges are paid. *[a new requirement]*
- Deletes the existing provision of law that provides that if an animal requires veterinary care and the humane society or public agency is not assured within 14 days of the seizure of the animal that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the seizing agency.

- Expands authority of a prosecuting attorney to file a petition in a criminal action requesting that, prior to final disposition, the court issue an order forfeiting the animal to the city, county, or seizing agency from cases involving cats and dogs, to cases involving any animal.
- Requires that if the animal was seized pursuant to a search warrant, that the court that issued or adjudicated the warrant give its express approval prior to the release of the animal to the owner.
- Requires the prosecutor's office with jurisdiction to inform the seizing or impounding agency if the decision is made not to file criminal charges based on conduct related to the impoundment of the animal.
- Requires the animal to be released to the owner if a decision has been made not to file criminal charges, the animal has not otherwise been deemed abandoned, and irrespective of whether the owner can demonstrate that he or she can and will provide the necessary care for the animal.

Prior Legislation: SB 1500 (Lieu) Chapter 598/2012 made a number of clarifying changes to provisions dealing with the seizure of animals.

Staff Comments: This bill specifies additional procedures with regard to the seizure and impoundment of animals, including more detailed requirements on the notification of charges to animal owners. While some costs related to the seizure, impoundment, care and treatment of animals will be reimbursed by the owners of the seized and impounded animals, and therefore, are not reimbursable by the state, the portion of costs that are unrecoverable from animal owners under the following circumstances could potentially be subject to mandate reimbursement – the seizure, care and treatment of animals remaining impounded beyond 14 days from the date of seizure for (1) the non-payment of charges, which is extended to 14 days from service of the notice of charges; (2) the payment of charges but inability of the owner to guarantee care for the animal as required for release of the animal to the owner; and, (3) the extended period of impoundment and care pending express approval of the court for animals seized pursuant to a search warrant.

Staff notes the Commission on State Mandates in a previous decision on *Animal Adoption (98-TC-11)* approved reimbursement to local agencies for the costs of care and maintenance for impounded stray or abandoned animals during increased holding periods, including for animals that were ultimately euthanized.

Although the cost of sending the statements of charges is recoverable from the owners, the bill does not specifically provide for the recovery of costs to establish the process of noticing, including the workload required to prepare the initial and subsequent notices. As a result, this provision could be determined to create a higher level of service on local agencies, potentially requiring reimbursement from the state (General Fund) for these additional administrative costs.

Recommended Amendments: Several provisions of PC § 597.1 make reference to the costs or provision of "care and treatment" of animals, while other provisions make

reference to only the costs or provision of “care” of the animal. For consistency, the author may wish to consider the following amendments to PC § 597.1:

*(f) (4) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the full cost of the ~~seizure and care~~ **seizure, care, and treatment** of the animal. The charges for the ~~seizure and care~~ **seizure, care and treatment** of the animal shall be a lien on the animal. The animal shall not be returned to its owner until the charges are paid and the owner demonstrates to the satisfaction of the seizing agency or the hearing officer that the owner can and will provide the necessary care for the animal.*

*(h) (1) If any animal is properly seized or impounded, or both seized and impounded, under this section or pursuant to a search warrant, the owner or keeper shall be personally liable to the seizing agency or impounding agency, or both the seizing agency and the impounding agency, for all costs of the seizure or impoundment, or both the seizure and impoundment, and care **and treatment** of the animal, including all costs associated with the preparation and posting of notices and sending of statements of charges in accordance with this section.*

*(h) (3) Notice of charges for the seizure, impoundment, ~~and care~~ **care and treatment** of the animal pursuant to this section shall be executed as follows:*

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