

States' Animal Cruelty Statutes: Montana

Current through the 2019 Session.

27-1-434. Cost of care of animals seized in animal cruelty and animal fighting cases

(1) When an animal is seized from a person by a law enforcement officer upon an alleged violation of 45-8-210, 45-8-211, or 45-8-217, the prosecutor may file a petition for a cost of care hearing in district court in the county where the seizure was made.

(2) The petition must contain:

(a) the authority and purpose of the seizure, including the time, place, and circumstances of the seizure and the purported facts regarding any animal cruelty or forced fighting in violation of 45-8-210, 45-8-211, or 45-8-217;

(b) a description of the animal, including its current condition, and any facts demonstrating the animal's significant disease, injury, or suffering;

(c) the name and address of the respondent unless the name and address of the respondent are not available to the petitioner after reasonable investigation, at which time the petition must contain the address of the premises where the animal was seized; and

(d) an evaluation that supports the animal's significant disease, injury, or suffering from a licensed veterinarian with experience treating the type of animal or animals in question. Livestock seized under this section must be evaluated by a large animal veterinarian in coordination with a state livestock inspector that is considered a law enforcement officer as designated by the department of livestock in 81-1-201.

(3) The petitioner shall serve a copy of the petition upon the respondent. If the name and address of the respondent are not available after reasonable investigation, the petition must be conspicuously posted by a law enforcement officer at the premises where the animal was seized.

(4) Upon receipt of the petition, the court shall set the matter for hearing not more than 10 days after the petition was filed with the clerk of court. The court shall notify the respondent in writing of the date and location of the hearing within 5 days of the hearing. If the name and address of the respondent are not available and have not been included in the petition, the notice must be conspicuously posted by a law enforcement officer at the premises where the animal was seized.

(5) At the hearing, the court shall consider the extent of the animal's disease, injury, or suffering and, no more than 5 days after the hearing, shall determine whether the animal will be:

(a) released to the respondent if the court does not find, by a preponderance of evidence submitted, that the animal was subjected to cruelty or forced fighting under 45-8-210, 45-8-211, or 45-8-217; or

(b) held and cared for by the county or an animal shelter designated by the county, pending disposition of a criminal proceeding initiated for an alleged violation of 45-8-210, 45-8-211, or 45-8-217.

(6)(a) If the court finds, by a preponderance of evidence submitted, that the animal was subjected to cruelty or forced fighting under 45-8-210, 45-8-211, or 45-8-217, the court may not release the animal to the respondent and shall set a renewable bond in an amount sufficient to cover the reasonable expenses expected to be incurred in caring for the animal for a period of 30 days.

(b) In setting the amount of bond to be posted, the court shall consider all of the facts and circumstances of the seizure, including but not limited to the need to care for the animal pending disposition of the criminal proceeding, the recommendations of the animal's current caretaker, and the estimated costs of caring for the animal. The court may take into consideration:

(i) the respondent's ability to pay for the cost of the animal's care, with the understanding that the ability to pay is not dispositive;

(ii) the likelihood that the respondent could care for the animal in the future; and

(iii) the respondent's ability to otherwise provide for the animal's care by other means while the animal is in the possession and care of the county.

(c) Upon an order of the court that a bond be posted, the amount of funds necessary for 30 days of the animal's care must be posted with the court. Unless the amount is adjusted pursuant to a hearing held as provided in subsection (6)(d), the court shall order the respondent to deposit the same amount every 30 days until final disposition of the criminal proceeding. Required payment dates must be included in the court's order, and the court has discretion to set the bond payment frequency less than 30 days.

(d) The respondent may request a hearing no fewer than 5 days before the expiration of the 30-day period, and the court may, upon a motion by a respondent, adjust the amount of reasonable expenses to be provided by the respondent.

(e) If the ordered funds are not deposited within 5 days of the payment dates set in the order, the ownership of the animal is forfeited to the county. The county has discretion of the animal and shall provide the court with all plans of disposal related to the animal.

(f) Once a bond has been posted in accordance with this section, the entity caring for the animal may draw from the bond the actual costs incurred in caring for the animal from the date of the cost of care hearing to the date of the final disposition of the criminal proceeding.

(g) In lieu of bond, the respondent may submit to the county a lien on real property necessary to cover the estimated costs of care for the duration of the proceedings. The lien must be in a form and manner acceptable to the county

and must be presented by an authorized owner or agent of the property encumbered.

(7)(a) Upon final disposition of the criminal proceeding, any remaining funds deposited with the court must be returned to the depositor.

(b) If the respondent is found not guilty of criminal charges in connection with the seized animal, the county shall:

(i) immediately return the animal to the respondent and return the full amount of the bond and release any applicable lien accepted in lieu of bond; or

(ii) pay the respondent the fair market value of the animal at the time of seizure, if ownership of the animal was forfeited to the county because the bond was not paid. Fair market value must be determined by the court after considering any relevant testimony, valuations, or affidavits specifically describing pecuniary loss and replacement value of the loss.

(8) An animal seized from a person for an alleged violation of 45-8-210, 45-8-211, or 45-8-217 may immediately be euthanized if, in the written determination of a licensed veterinarian, the animal is injured or diseased to the extent that it is not likely to recover. If the respondent is found not guilty of criminal charges in connection with a seized animal that was euthanized while in the possession and care of the county, the county shall pay the respondent the fair market value of the animal. The fair market value must be based on the value of the animal at the time of seizure of the animal as established by relevant testimony and valuations.

(9) For the purposes of this section, the following definitions apply:

(a) "Reasonable expenses" means the cost of providing care, including but not limited to food, water, shelter, and necessary veterinary care to an animal. Reasonable expenses do not include costs that arise from disease, injury, or suffering sustained by an animal while in the possession and care of the county.

(b) "Respondent" means the owner or owners of an animal seized by law enforcement upon an alleged violation of 45-8-210, 45-8-211, or 45-8-217.

45-8-209. Harming a police dog -- penalty -- definition

(1) A person commits the offense of harming a police dog if the person purposely or knowingly shoots, kills, or otherwise injures a police dog being used by a:

(a) law enforcement officer in discharging or attempting to discharge a legal duty in a reasonable and proper manner; or

(b) person while the person is under the control of and acting under the direction of an officer of an official law enforcement agency during the performance of the agency's law enforcement or search and rescue duties.

(2) A person convicted of the offense of harming a police dog may be fined an amount not to exceed \$5,000 or be imprisoned in the state prison for a term not to exceed 1 year, or both.

(3) As used in this section, the following definitions apply:

(a) "Law enforcement officer" means a person who is a peace officer, as defined in 46-1-202, or any other agent of a criminal justice agency.

(b) "Police dog" means a dog that is:

(i) used by a law enforcement agency, as defined in 44-11-303, in the exercise of its authority;

(ii) specifically trained for law enforcement or search and rescue work;
and

(iii) under the control of a law enforcement officer.

45-8-210. Causing animals to fight -- owners, trainers, and spectators -- penalties -- exception -- definition

(1) A person commits the offense of causing animals to fight if he:

(a) owns, possesses, keeps, or trains any animal with the intent that such animal fight or be engaged in an exhibition of fighting with another animal;

(b) allows or causes any animal to fight with another animal or causes any animal to menace or injure another animal for the purpose of sport, amusement, or gain;

(c) knowingly permits any act in violation of subsection (1)(a) or (1)(b) to take place on any premises under his charge or control, or aids or abets any such act;

(d) participates in any exhibition in which animals are fighting for the purpose of sport, amusement, or gain.

(2) A person convicted of violating this section is guilty of a felony and shall be fined an amount not to exceed \$5,000 or be imprisoned in the state prison for a term of not less than 1 year or more than 5 years, or both.

(3) Nothing in this section prohibits the following:

(a) accepted husbandry practices used in the raising of livestock or poultry;

(b) the use of animals in the normal and usual course of rodeo events; or

(c) the use of animals in hunting and training as permitted by law.

(4) For purposes of this section, "animal" means any cock, bird, dog, or mammal except a human.

45-8-211. Cruelty to animals -- exceptions

(1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by:

- (a) overworking, beating, tormenting, torturing, injuring, or killing the animal;
- (b) carrying or confining the animal in a cruel manner;
- (c) failing to provide an animal in the person's custody with:
 - (i) food and water of sufficient quantity and quality to sustain the animal's normal health;
 - (ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species;
 - (iii) in cases of immediate, obvious, serious illness or injury, licensed veterinary or other appropriate medical care;
- (d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or
- (e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race.

(2) (a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both.

(b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense.

(c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense.

(3) In addition to the sentence provided in subsection (2), the court:

(a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter;

(b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and

(c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence.

(4) This section does not prohibit:

(a) a person humanely destroying an animal for just cause;

- (b) the use of commonly accepted agricultural and livestock practices on livestock;
- (c) rodeo activities that meet humane standards of the professional rodeo cowboys association;
- (d) lawful fishing, hunting, and trapping activities;
- (e) lawful wildlife management practices;
- (f) lawful scientific or agricultural research or teaching that involves the use of animals;
- (g) services performed by a licensed veterinarian;
- (h) lawful control of rodents and predators and other lawful animal damage control activities; or
- (i) accepted training and discipline methods.

45-8-217. Aggravated animal cruelty

A person commits the offense of aggravated animal cruelty if the person purposely or knowingly:

- (1) kills or inflicts cruelty to an animal with the purpose of terrifying, torturing, or mutilating the animal; or
- (2) inflicts cruelty to animals on a collection, kennel, or herd of 10 or more animals.