

RCW 16.52.085 AS AMENDED BY HB 1234 (User Friendly Formatting)
(effective July 23, 2023)

RCW 16.52.085

Seizure of animal for abuse or neglect—Process—Notice—Forfeiture of animal—Petition for a civil hearing for the immediate return of a seized animal.

(1) For the purposes of this section:

(a) "Minimum care" means care sufficient to preserve the physical and mental health and well-being of an animal and includes, but is not limited to, the following requirements:

(i) Food of sufficient nutrition, quantity, and quality to allow for normal growth or maintenance of healthy body weight;

(ii) Open or adequate access to potable water of a drinkable temperature in sufficient quantity to satisfy the animal's needs;

(iii) Shelter sufficient to protect the animal from wind, rain, snow, sun, or other environmental or weather conditions based on the animal's species, age, or physical condition;

(iv) Veterinary or other care as may be deemed necessary by a reasonably prudent person to prevent or relieve in a timely manner distress from injury, neglect, or physical infirmity; and

(v) Continuous access to an area:

(A) With adequate space for exercise necessary for the physical and mental health and well-being of the animal. Inadequate space may be indicated by evidence of debility, stress, or abnormal behavior patterns;

(B) With temperature and ventilation suitable for the health and well-being of the animal based on the animal's species, age, or physical condition;

(C) With regular diurnal lighting cycles of either natural or artificial light; and

(D) Kept reasonably clean and free from excess waste, garbage, noxious odors, or other contaminants, objects, or other animals that could cause harm to the animal's health and well-being.

(b) "Physical infirmity" includes, but is not limited to, starvation, dehydration, hypothermia, hyperthermia, muscle atrophy, restriction of blood flow to a limb or organ, mange or other skin disease, or parasitic infestation.

(c) "Physical injury" includes, but is not limited to, substantial physical pain, fractures, cuts, burns, punctures, bruises, or other wounds or illnesses produced by violence or by a thermal or chemical agent.

(d) "Serious physical injury or infirmity" means physical injury or physical infirmity that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of a limb or bodily organ.

(2) (a) If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated this chapter or a person owns, cares for, or resides with an animal in violation of RCW **16.52.200** or an order issued under RCW **16.52.205** or **16.52.207**, the officer, after obtaining a warrant, may enter the premises where the animal is located and seize the animal.

(b) If a law enforcement officer or an animal control officer has probable cause to believe an animal is in imminent danger or is suffering serious physical injury or infirmity, or needs immediate medical attention, the officer may enter onto private property without a warrant to:

(i) Render emergency aid to the animal; or

(ii) Seize the animal without a warrant. Any animal seized without a warrant shall immediately be brought to a veterinarian licensed in the state of Washington to provide medical attention and to assess the health of the animal.

(c) A law enforcement officer or an animal control officer is not liable for any damages for entry onto private property without a warrant under this section, provided that the officer does not use any more force than is reasonably necessary to enter upon the property and remove the animal.

(3) (a) An animal seized under this section may be placed into the custody of an animal care and control agency, into foster care that is not associated in any way with the owner, or with a nonprofit humane society, nonprofit animal sanctuary, or nonprofit rescue organization. In determining what is a suitable placement, the officer shall consider the animal's needs, including its size, medical needs, and behavioral characteristics. Any person or custodial agency receiving an animal seized under this section shall provide the animal with minimum care.

(b) If a seized animal is placed into foster care or with a nonprofit animal sanctuary or rescue organization, the seizing agency shall retain constructive custody of the animal, shall have the duty to ensure the animal receives minimum care, and may draw from the bond under subsection (5) of this section and distribute the funds to the foster home, authorized humane society, sanctuary, or rescue organization that is authorized to care for the animal.

(4) The owner from whom the animal was seized shall be provided with notice of the right to petition for immediate return of the animal and shall be afforded an opportunity to petition for such a civil hearing before the animal is deemed abandoned and forfeited. Any owner whose animal is seized by a law enforcement officer or animal control officer under this section shall, within 72 hours following the seizure, be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to the last known or suspected owner in person or a person residing at the place of seizure, or by registered mail to the last known or suspected owner. Such notice shall include:

- (a) The name, business address, and telephone number of the law enforcement agency or animal care and control agency responsible for seizing the animal;
- (b) A description of the seized animal;
- (c) The authority and purpose for the seizure, including the time, place, and circumstances under which the animal was seized;
- (d) A statement that the owner is responsible for the cost of care for an animal who was lawfully seized, and that the owner will be required to post a bond with the clerk of the district court of the county from which the animal was seized to defray the cost of minimum care pursuant to subsection (5) of this section within 14 calendar days of the seizure or the animal will be deemed abandoned and forfeited; and
- (e) A statement that the owner has a right to petition the district court for a civil hearing for immediate return of the animal and that in order to receive a hearing, the owner or owner's agent must request the civil hearing by signing and returning to the court an enclosed petition within 14 calendar days after the date of seizure. The enclosed petition must be in substantially the same form as set forth in subsection (13) of this section.

(5) (a) When an animal is seized pursuant to this section, the owner shall post a bond with the district court in an amount sufficient to provide minimum care for each animal seized for 30 days, including the day on which the animal was taken into custody, regardless of whether the animal is the subject of a criminal charge. Such bond shall be filed with the clerk of the district court of the county from which the animal was seized within 14 calendar days after the day the animal is seized.

(b) (i) If an owner fails to post a bond by 5:00 p.m. on the 14th calendar day after the day the animal was seized as required under this section, the animal is deemed abandoned and the owner's interest in the animal is forfeited to the custodial agency by operation of law in accordance with the notice provided in subsection (4) of this section.

(ii) A petition required by subsection (4)(e) of this section may be filed in the district court of the county from which an animal was seized concerning any animal seized pursuant to this section. Copies of the petition must be served on the law enforcement agency or animal care and control agency responsible for seizing the animal and the prosecuting attorney.

(iii) An owner's failure to file a written petition by 5:00 p.m. on the 14th calendar day after the day the animal was seized shall constitute a waiver of the right to file a petition under this subsection and the animal is deemed abandoned and the owner's interest in the animal is forfeited to the custodial agency by operation of law unless a bond has been posted pursuant to this subsection (5). The court may extend the 14-day period to file a written petition by an additional 14 calendar days if the petitioner did not have actual notice of the seizure and the court finds, on the record and in writing, that there are exceptional and compelling circumstances justifying the extension.

(c) (i) Upon receipt of a petition pursuant to (b) of this subsection, the court shall set a civil hearing on the petition. The hearing shall be conducted within 30 calendar days after the filing of the petition.

(ii) At the hearing requested by the owner, the rules of civil procedure shall apply and the respondent shall have the burden of establishing probable cause to believe that the seized animal was subjected to a violation of this chapter. The owner shall have an opportunity to be heard before the court makes its final finding. If the court finds that probable cause exists, the court shall order the owner to post a bond as required by this subsection (5) within 72 hours of the hearing, and if the owner fails to do so, the seized animal is deemed abandoned and the owner's interest in the animal is forfeited to the custodial agency by operation of law. If the respondent does not meet its burden of proof, the court may order the animal returned to the owner at no cost to the owner, subject to conditions set by the court. If the court orders the return of an animal to the owner, the court may also order:

(A) Reasonable attorney fees for the owner; and

(B) A full refund of the bond posted pursuant to this subsection (5) by the owner for the care of the animal.

(d) (i) If a bond has been posted in accordance with this subsection (5), subsequent court proceedings shall be given court calendar priority so long as the animal remains in the custody of the custodial agency and the custodial agency may draw from the bond the actual reasonable costs incurred by the agency in providing minimum care to the animal from the date of seizure to the date of final disposition of the animal in the criminal action.

(ii) At the end of the time for which expenses are covered by the bond, if the owner seeks to prevent disposition of the animal by the custodial agency, the owner shall post a new bond with the court within 72 hours following the prior bond's expiration. If an owner fails to post or renew a bond as required under this subsection (5), the animal is deemed abandoned and the owner's interest in the animal is forfeited to the custodial agency by operation of law.

(e) For the purposes of this subsection (5), "animal" includes all unborn offspring of the seized animal and all offspring of the seized animal born after the animal was seized.

(6) When an animal is seized from a person prohibited from owning, caring for, possessing, or residing with animals under RCW **16.52.200** or an order issued pursuant to RCW **16.52.205** or **16.52.207**, the animal is immediately and permanently forfeited by operation of law to the custodial agency and no court action is necessary.

(7) If an animal is forfeited to a custodial agency according to the provisions of this section, the agency to which the animal was forfeited may place the animal with a new owner; provided that the agency may not place the animal with family members or friends of the former owner or with anyone who lives in the same household as the former owner. At the time of placement, the agency must provide the new owner with notice that it may constitute a crime for the former owner to own, care for, possess, or reside with the animal at any time in the future.

(8) A custodial agency may authorize a veterinarian or veterinary technician licensed in the state of Washington or a certified euthanasia technician certified in the state of Washington to euthanize a seized animal for humane reasons at any time if the animal is severely injured, sick, diseased, or suffering.

(9) Nothing in this chapter shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to a law enforcement officer, animal control officer, or animal care and control agency. Voluntary relinquishment has no effect on the criminal charges that may be pursued by the appropriate authorities.

(10) Nothing in this chapter requires court action for taking custody of, caring for, and properly disposing of stray, feral, at-large, or abandoned animals, or wild animals not owned or kept as pets or livestock, as lawfully performed by law enforcement agencies or animal care and control agencies.

(11) Any authorized person caring for, treating, or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

(12) The provisions of this section are in addition to, and not in lieu of, the provisions of RCW **16.52.200**.

(13) A petition for a civil hearing for the immediate return of a seized animal shall be in a form substantially similar to the following:

IN THE _____ COURT OF THE STATE OF WASHINGTON AT
IN AND FOR THE COUNTY OF _____

| | | |
|-------------|---|---------------------|
| _____ |) | |
| |) | No. |
| |) | |
| Petitioner, |) | |
| |) | PETITION FOR RETURN |
| vs. |) | OF SEIZED ANIMALS |
| |) | |
| _____ |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

PARTIES/JURISDICTION

(a)(i) That Petitioner is, and at all relevant times herein was, a resident of _____ (county of residence) County, Washington.

(ii) That Respondent is, and at all relevant times herein was, an agent, contractor, or political subdivision of the City/County of _____ (city or county of seizing agency), State of Washington.

(iii) That Petitioner's animal/animals were seized by Respondent in _____ (county where animals were seized) County, Washington.

(iv) That this Court has jurisdiction over the subject matter and the parties hereto.

FACTS

(b)(i) That upon seizure of _____

(number and type of animals) such animals were placed in the care and custody of the Respondent on _____ (date of seizure).

(ii) That on or about _____ (date on notice) the Respondent issued a seizure, bond, and forfeiture notice under RCW **16.52.085**, a true and correct copy of said notice and accompanying attachments is attached hereto and incorporated herein as Exhibit A (attach a copy of the notice of seizure to this petition).

(iii) That pursuant to such notice, Petitioner herein files this petition for the immediate return of all such seized animals pursuant to RCW **16.52.085**.

PRAYER

(c) Petitioner prays that this Court grant said petition and order the immediate return of Petitioner's aforementioned animals to Petitioner's care and custody.

DATED the _____ day of _____, 20____.

By: _____

Petitioner (Signature)

NOTES:

Findings—2023 c 246: "The legislature finds and declares that:

(1) The use of preconviction civil remedies is not an affront to the presumption of innocence and shall be used to satisfy the interest of the state in mitigating the suffering of animals by expediting the disposition of animal victims seized during animal cruelty investigations.

(2) Washington has an interest in facilitating the mitigation of costs of care incurred by a government agency, an animal care and control agency or its agent, or a person or agency that provides treatment for seized animals. A government agency, an animal care and control agency or its agent, or a person or agency that provides care and treatment for seized animals may mitigate the costs of the care and treatment through funding that is separate from, and in addition to, any recovery of reasonable costs that a court orders a defendant to pay while a forfeiture proceeding is pending or subsequent to a conviction.

(3) The purpose of this act is to provide a means by which a neglected or abused animal, an animal involved in animal fighting, or an animal kept in violation of RCW **16.52.200** or a court order may be removed from its present custody and protected, cared for, and disposed of appropriately and humanely.

(4) The laws and rules of Washington that are applicable to civil asset forfeiture do not apply to the seizure and forfeiture of animals under this section." [**2023 c 246 § 1.**]

Finding—Intent—1994 c 261: See note following RCW **16.52.011.**

Construction—1987 c 335: "Nothing in this act shall be construed as expanding or diminishing, in any manner whatsoever, any authority granted officers under RCW **16.52.020** or **16.52.030.**" [**1987 c 335 § 6.**]

Severability—1987 c 335: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [**1987 c 335 § 7.**]