

2017 HOUSE POLITICAL SUBDIVISIONS

HB 1301

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivision Committee
Prairie Room, State Capitol

HB 1301
2/2/2017
Job # 27842

- Subcommittee
 Conference Committee

Carmen Heckler

Explanation or reason for introduction of bill/resolution:

Relating to bonding for the cost of care for animals seized by law enforcement

Minutes:

1,2,3,4,5,6,7,8,9,10

Chairman Klemin: Opened the hearing on HB 1301

Rep. Kiefert: Introduced HB 1301. (Handouts 1,2). Explained the proposed amendments.

Rep K. Koppelman: It is my understanding you sought to withdraw this bill and that was denied. Is that correct?

Rep. Kiefert: That is correct. The Ag groups were in opposition to this so I did not want to have a floor debate on this.

Chairman Klemin: Question on the proposed amendment #1, this section does not apply to cattle, sheep or swine, this whole section does apply to cattle, sheep and swine as well as any other kind of animal.

Rep. Kiefert: That is where the amendment would take them out. I would leave it in myself because that is happening in our state.

Rep. Johnson: On page 2 lines 19 and 20, who reimburses the innocent party?

Rep. Kiefert: If the person that is charged wants to fight the charge, then they would have to post a bond to hold the animals while he fights this in court. Law enforcement is not going to start something if they don't think they have a clear cut case.

Rep. Johnson: I understand the substance of the bill, but who reimburses the innocent party, this doesn't direct any one particular agency or county to reimburse them? Who would that be?

Rep. Kiefert: If they posted bond to the court the court would replace that bond.

Chairman Klemin: The Clerk of County holds the bonds so the money would be coming back from the Clerk of Court.

TJ Jerke, ND State Director of The Humane Society of the United States: (Testimony and handouts #3) (Time 9:17 to 20:20) Explained the bill.

Chairman Klemin: The language in this bill I find it unusual that an owner would have to post bond if criminal charges are intended to be filed. They would have a bond hearing before criminal charges ever were filed?

Mr. Jerke: It would depend on the case. The intent is yes that the petition can be allowed to filed if the circumstances warrant that the animal is going to be in the care of the seizing agency for quite some time.

Chairman Klemin: While this animal is in the custody of whoever that entity is, they are able to draw from the bond while the criminal charges are pending, that's unusual. The bond is used up before we even get to the acquittal or conviction?

Mr. Jerke: Yes, the term bond a fee paid out to the Clerk of Court. The cost should be placed on the owner and that is the intent of the bill.

Chairman Klemin: So that animal is being taken care of and they are drawing on the bond to care for the animal. But the way the bill reads now if the person is found not guilty then they get all the money back plus the animal that has been cared for and agency absorbs that cost?

Mr. Jerke: Yes, the idea is there should be a preponderance of the evidence that the animal was lawfully ceased.

Chairman Klemin: The state or the agency would pay for the care of this animal all during the time the case is pending and the if the defendant is acquitted he gets the animal back plus all the money he had to pay in during this time?

Mr. Jerke: Correct, if they are acquitted then the animal shouldn't have been or may not have been lawfully ceased because there was no violation of the Century Code.

Rep. Ertelt: You stated earlier that it is nearly impossible to reclaim that cost of care upon conviction. Is that correct?

Mr. Jerke: Yes.

Rep. Ertelt: Why do you think that is?

Mr. Jerke: One example with the King case, the individual fled the state and there is a warrant out for his arrest. The animal was in care for an entire year, the dog has since been adopted but after a year's worth of care.

Rep. Ertelt: So that is one particular case. Can you speak more generally why?

Mr. Jerke: When these animals are seized, the question comes up how long will it take for a Judge to rule on this? Non-profit groups back out from taking and providing care when it could take months to figure out this case.

Rep. Ertelt: I don't believe you answered my question which was, why do you suppose it is nearly impossible to reclaim the cost of care upon conviction?

Mr. Jerke: We looked at cases across the country and restitution hasn't been paid. Animal cruelty are unique because we are dealing with live animals. Getting restitution is difficult.

Chairman Klemin: If the lien is upon the animal the owner or the defendant can keep the animal. So no recourse for getting money back from the owner.

Mr. Jerke: However if they don't post a bond within 5 days then the seizing agent would be able to adopt out, sell or destroy the animal.

Aaron Burst, Association of Counties: (Time 28:56 to 30:25) We have looked at this in terms of workable and felt it was. This is more protection for the tax payers to make sure the county isn't stuck with additional costs. This isn't going to solve all the problems but it certainly gives us the option of having a higher bond to help pay that animal care while we are undergoing the trial status. It's unusual to try and get the money back after a criminal case. Many of the cases we have seen money is already an issue. If you can get some of the money up front to cover the cost, in our opinion it covers the taxpayers.

Rep. Johnson: Can you walk us through how the bond would work?

Mr. Burst: My understating is essentially a bond, ultimately the county or private donors are going to be paying for the animal care. I'm not sure why it was called a fee.

Rep. Johnson: So unlike a bond to guarantee my appearance, I buy a bond at 1%, I am paying \$50 on a \$5000 bond, I buy that bond from the bonding agent, then I'm guilty, so the bonding agent will pay that \$5000. So the recourse is against me for the \$5000? Is that how it works?

Mr. Burst: Yes, on the criminal concept. Except I can do a cash bond or I can get a bond agent. The bond agent is on the hook if I flee, then the bonding agent has to pay the court for the bond. My understanding is the defendant would be putting up the cash. I am not sure if a bond agent would be doing that in this kind of scenario. If someone puts up a bond for you that doesn't mean the court takes that money at the end of the case. The bond has secured the appearance if they appear they will return the bond back to the bondman.

Chairman Klemin: On page 2 line 13, this says the agency can draw on the bond during the time the case is pending. Use it up, then after 30 days need to come back and put more money in. That is different from the typical bond.

Mr. Burst: You are right. Usually the bond just sits there until the completion of the criminal case. The concept of having someone put up some money to protect the county taxpayer.

Chairman Klemin: Or there any other situation where a person would be required to post bond if criminal charges are intended to be filed?

Mr. Burst: I would say generally no. If someone gets picked up for an overweight truck, then on the civil side not technique criminal, they are required to put up the bond before they are charged civilly.

Chairman Klemin: This is criminal and the way this reads on page 1 line 17, criminal charges are pending or intending to be filed then we have a bond hearing before anything else happens.

Mr. Burst: In my opinion, intending to, would not necessarily have to be in that bill. We are talking about where the prosecutor has initiated a criminal action against a person and has taken the animals and is currently caring for them. I don't know how you would post a bond because there wouldn't be anything to attach it to.

Chairman Klemin: Getting back to the question from Rep. Johnson. The owner is reimbursed for any bond paid if he is found not guilty. If that money has been used up in the care of the animals during the time the case was pending, where does the money come from to pay back the owner?

Mr. Burst: The county.

Chairman Klemin: Can the court order restitution?

Mr. Burst: No unless there is a separate civil action filed against the owner.

Rep. Ertelt: I expect the reason to reclaim the cost of care upon conviction is because the defendants have money difficulties. Even with a bond the bond agent in place, they will want to know the bond will be paid, so I find it unlikely a bond agent will accept that bond. How effective do you think this would actually be?

Mr. Burst: I agree, I think this is one tool, but this won't solve all the problems.

Rep. Ertelt: What happens if the animal dies?

Mr. Burst: I would assume the lien is extinguished.

Rep. Johnson: The rules and regulations limit the judge of what they can do at an arraignment. I don't know if a civil case that stems from a criminal case if the rules need to be changed to provide hearings. We have this other hearing now you have a bond hearing within 20 days, the guy can't get a bond because no one wants to assume that risk. There is

an order to show cause. We are clogging up the courts with this matter. It seems it is unworkable.

Mr. Burst: We have orders to show cause all the time, we set bonds all the time, a bond is not just from a bonding agent. In the criminal system there is always negotiations, there is always agreement if you plead to a lesser charge. I think there is a way to get around that.

Chairman Klemin: Page 2 line 16, if the owner fails to post bond while the charges are pending the agency can sell the animal, place the animal for adoption or destroy it. It doesn't say anything about the court issuing an order to show cause.

Mr. Burst: This is an attempt to keep the county from having to suck up all the costs.

Andrew Delain, Assistant Burleigh County States Attorney: (Handout #4) (Time 47:27 to 54:45) Explained a case that he had prosecuted in 2016. (Said he would provide testimony following the hearing, but did not).

Rep. Hanson: What happened to the German Shepard?

Mr. Delain: I do not know. But the individual that had reported the dog in the car expressed interest in adopting.

Rep. Johnson: What do you think of the 20-day requirement for hearing on a bond? How would that affect the docket and going from criminal to civil?

Mr. Delain: The existing system that we have, there is either placing a lien on the animal or getting restitution if there is a conviction. In my experience restitution is one of the hardest things to recover from defendants. The only remedy is enter a civil judgement against that person which if they are not applying for loans for a house or car that are not going to have any incentive to pay on the civil judgement. With this bill we would have that hearing 20 days after the time and we felt it was necessary to get bond for this animal. It is a tool that is given to get those costs taken care of the costs up front. The level of the burden of truth wouldn't be outside the criminal docket.

Rep. Johnson: Can you tell me how liens are obtained?

Mr. Delain: With dogs and cats the cost of care is higher than what that animal is worth.

Rep. Ertelt: In those cases, where there hasn't been a lien, what was done instead?

Mr. Delain: We did not ask for restitution from the defendant and in that case the impound wasn't recouped any of the cost incurred.

Rep. Johnson: What do you see as the practicality of this new tool?

Mr. Delain: I don't see this as being onerous on the prosecutor or onerous on the court system. In this case she was brought in and there was no bond set to ensure her next court appearance, she was released on promise to appear.

Dr. Marie Henderson: (Testimony #5) (Time 1:05:49 to 1:08:22)

Rep. Ertelt: Do you have difficulty in recouping the costs?

Dr. Henderson: In the Mott dog case they had already relinquished their rights. So Furry Friends had those animals. I gave them a discount so I am losing money.

Julie Schirado, Furry Friends Rockin Rescue: (Testimony #6) (Time 1:09:00 to 1:13:38)

Rep. Ertelt: Do you operate as a non-profit organization?

Ms. Schirado: We sure do.

Rep. Ertelt: Do you receive funds from the Humane Society?

Ms. Schirado: We have raised over \$90,000 in the past 12 months. It all goes for animal care.

Rep. Ertelt: Does any come from the Humane Society?

Ms. Schirado: Not at all. It is all fund raised by us.

Sarah Goethe, Volunteer with Furry Friends: (Handout # 7) (Time 1:15:09 to 1:15:57)
Discussed Amy Pikovsky's testimony.

Chairman Klemin: Stated testimony #8 was emailed to the committee.

Pete Hanebutt, ND Farmer's Union: We oppose HB 1301. This is being promoted as a way to save costs for counties. We don't believe that is the case, I would assert that this is part of a bigger agenda than they have. They are training law enforcement officers and regardless of the sound science on what animal cruelty is in their opinion. This will incentivize the ability to profit from seizure of animals. This is driven by a national organization that does not have animal agriculture, pure bred animals, we oppose the whole idea of it.

Rep. Beadle: You said you think we would be worse off and the unintended consequences. Outside of what you see as a slippery slope what do you see as being the unintended consequences?

Mr. Hanebutt: They obviously can't take care of the animals; they don't have the money to put up a bond so why go through this? When you get into large animals and someone who doesn't know what a healthy animal looks like, you seize an animal even though they might look neglected and isn't.

Rep. Beadle: This legislation does not go into when they should seize the animal. Rather the counties and political subdivisions recouping the cost of care. How do you feel that the counties should go about recouping these costs they are absorbing?

Mr. Hanebutt: Counties have lean budgets but there are mechanisms out there for them to collect from folks.

Rep. Zubke: Would you be more comfortable with this bill if it specified some definition of pets?

Mr. Hanebutt: I don't think you can make a bad bill better.

Rep K. Koppelman: He referred to testimony of Julie Ellingson (Testimony #8)

Mr. Hanebutt: I am not as familiar with that as those you were involved.

Vice Chairman Hatlestad:

Trevor Graff, Stockmen's Association: (Testimony #9) (Time 1:25:10 to 1:27:12) Read the testimony of Julie Ellingson.

Rep. Beadle: Looking after the implementation and we see cases, how to you propose without legislation like this that counties recoup their costs?

Mr. Graff: I would have to refer to Julie on this.

Deana Wiese, ND Veterinary Medical Association: (Testimony #10) (Time 1:28:15 to 1:29:35)

Rep. Beadle: You mentioned the cost and seizure is already addressed in Century Code, how do we make sure counties lose money and have budget shortfalls?

Ms. Wiese: NDVMA doesn't feel this bill will address that and likely hardships for the owners.

Kristy Schlosser Carlson, ND Farmer's Union: The past agreement was someone would not liable until found guilty and convicted. The mechanism for recouping those costs is already in Code. If you are convicted, you will be held responsible. If a bond is another mechanism for doing but the way this bill is written is not that.

Vice Chairman Hatlestad: Closed the hearing on HB 1301.

2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivision Committee
Prairie Room, State Capitol

HB 1301
2/2/2017
Job # 27843

- Subcommittee
 Conference Committee

Carmen Hickel

Explanation or reason for introduction of bill/resolution:

Relating to bonding for the cost of care for animals seized by law enforcement

Minutes:

Chairman Klemin: Opened for committee work. This bill does have some interesting things that will need to be amended.

Rep K. Koppelman: Made a do not pass motion.

Rep. Zubke: Second the motion.

Rep. Beadle: I am going to resist the motion because Mr. Burke told me he had been speaking with TJ Jerke and they were going to meet tomorrow to try and come up with some amendments.

Rep K. Koppelman: There are several reasons that I moved the do not pass motion. There are flaws. As I look at the bill I was here in 2013 and the groups worked very hard to come together on something they could agree with. The result was a law that maybe nobody loves but everyone likes well enough they can live with it. That is a good compromise when it comes to legislation.

Rep. R. S. Becker: I certainly stand to be corrected, but there is both pro and con on the bill, voiced no expectation that fines can be collected. This is the first bill in two sessions where neither side thought they could make good on this side.

Rep. Ertelt: I would like to know the liability for the counties are across the state? However, I do feel the court system does try and extract some of the monies from those are found guilty.

Rep. Beadle: One of the things that didn't come up today, and there is a bill going through the AG committee that got voted out. What the subject does it requires before law enforcement is able to seize an animal they have to have a letter from a veterinarian advising them to do that. If an animal is being seized and gets to this situation, then there is already

probably cause. So throwing a financial instrument upfront as an ability to offset the cost that the county is going to incur, I think would help some of the smaller counties where this has happened. I am asking the committee to resist the motion until we get something some language back from some of the groups.

Rep. Pyle: The Humane Society of America does not have a shelter in ND, nor do they contribute any money towards these recues to help offset for the non-profit.

Rep. Guggisberg: What I'm hearing from the committee, that there are special interest groups that won't let us solve certain problems because they have a very strict view of how laws should look in ND. So we have to go back to our communities and tell them we understand it is a problem but this is how it works in ND. I think we should let these people come up a solution.

Rep. Zubke: I don't disagree with Rep. Guggisberg but the bill came in with a couple of amendments, it has some serious flaws.

Chairman Klemin: One concern I have about it, is we could go through a lot of amending of this bill but the real problem it is going to cost starting at about \$20 per day to take care of a dog. It can be several months before there is a trail on this and in the meantime they have to keep paying these fees in and that is assuming the dog doesn't need additional care. A person who is charged with animal cruelty who is being asked to pay \$600 a month minimum and avoid doing that by saying you can have the dog. I don't see this providing a solution, as people who are charged are not going to pay that kind of money.

Rep. Beadle: I don't disagree, my concern is look at particular incidents and there are significant costs, us having the counties come and say we have some small counties dealing with this. The current situation is that the counties are on the hook. Yes, they will have some non-profits step in but the counties do have the costs.

Rep. Guggisberg: If I was being charged with animal cruelty and we pass the bill similar to this, I would have the option of giving up my pet or I would be responsible for the cost of the pet? Is that how it would work?

Chairman Klemin: As I read the bill if you are convicted you are already responsible for the costs. The way the bond provisions read it gives the person an alternative to paying for the care or giving up their animal.

Vice Chairman Hatlestad: The place in Kathryn with all the dogs, did the person have any financial resources? Could we have charged them or would it have been a waste of time?

Do not pass carried 10 yes, 4 no, 1 absent

Carrier Rep. Simons

Following the hearing it was determined that Rep. Hatlestad will carry the bill instead of Rep. Simons.

Date: 2-2-17
 Roll Call Vote: 1

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1301**

House Political Subdivisions Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. K. Koppelman Seconded By Rep. Zubke

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin	/		Rep. Guggisberg		/
Vice Chairman Hatlestad	/		Rep. Hanson		/
Rep. Beadle		/			
Rep. Becker	/				
Rep. Ertelt	/				
Rep. Johnson	/				
Rep. Koppelman	/				
Rep. Longmuir	/				
Rep. Maragos	/	/			
Rep. Pyle	/				
Rep. Simons	/				
Rep. Toman	/				
Rep. Zubke	/				

Total (Yes) 10 No 4

Absent 1

Floor Assignment Rep. Hatlestad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1301: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1301 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

HB 1301

HB 1301

2-2-17

#1

17.0461.03001
Title.

Prepared by the Legislative Council staff for
Representative Kiefert
January 21, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1301

Page 2, after line 27, insert:

"5. This section does not apply to cattle, sheep, or swine."

Renumber accordingly

HB 1301

2-2-17

#2

17.0461.03002
Title.

Prepared by the Legislative Council staff for
Representative Kiefert
January 23, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1301

Page 2, line 25, replace "more" with "fewer"

Renumber accordingly

2-2-17

**Testimony in Support of House Bill 1301
Presented to the House Political Subdivisions Committee
February 2, 2017
By TJ Jerke
North Dakota State Director
The Humane Society of the United States**

On behalf of The Humane Society of the United States (The HSUS) and our members and supporters in North Dakota, thank you for the opportunity to testify in support of HB 1301, a bill that creates a fair process to relieve taxpayers and nonprofit organizations from the financial burden of caring for animals who are lawfully seized in cruelty cases, saving law enforcement resources, taxpayer dollars, and animal lives.

With the favorable approval of the bill, North Dakota will join Thirty-five (35) other states that use a similar mechanism to provide for the efficient disposition of seized animals. HB1301 in no way expands our state's cruelty code but, rather, gives law enforcement another tool for their tool chest to effectively address the financial cost of enforcing North Dakota's animal cruelty law.

History of Animal Cruelty laws in North Dakota

You may recall the conversations that took place back in 2012 and 2013 to ramp up the state's animal cruelty laws. Some of you voted to support those laws, and to that, we thank you. I was not in this position at the time, though I know – and appreciate – the handful of groups who participated in those conversations and championed the laws we now have; some of which you may hear from later – with greater detail about these past efforts.

We understand there is language in existing Century Code that addresses the disposition of animals, and one option that law enforcement has at their disposal during these cases. Since the animal cruelty code was bolstered four years ago, some issues have come up that can be alleviated with the proposal before you in HB1301.

Existing code

1. The law only allows officers to file a petition. The proposal provides additional flexibility.

Chapter 36-21.2-06 Duty Upon Seizure subsection a state,

- a. If the owner and the person having custody or control at the time of the seizure are known to the officer, the officer shall:
 1. Provide notice
 2. Petition the court directing the disposition
- b. If unknown, law enforcement has to publish notice in official newspaper for a 5 day period. If the owner is identified, law enforcement shall petition the court for the disposition of the animal.

2. Conviction and Restitution

Under Chapter 36-21.2-07,

If convicted of violating this chapter, the owner of an animal seized under section 36-21.2-05 is responsible for all costs related to the animal's seizure, including required notifications, attorney's fees, court costs, and any costs incurred in providing the animal with care or in providing for its destruction in accordance with section 36-21.2-06.

We support this language, as it is not being removed from Century Code with House Bill 1301. However, the issue with it, though, is oftentimes animal cases take longer than anticipated. Because the cases can take a considerable amount of time to adjudicate, seizing agencies and other organizations take on the costs during this period. If a conviction is handed down, and restitution is sought, it is typically impossible to secure.

3. Liens don't work in animal cruelty cases

Under Chapter 36-21.2-07 subsection 2:

- a. The law enforcement agency that seized the animal has a lien upon the animal for all costs incurred as a result of the seizure and conviction. The lien is superior to any other claim or lien.
- b. If the lien is not satisfied by the animal's owner, the law enforcement agency may apply to the court for an order enforcing the lien.

This lien process doesn't work in animal cruelty cases because:

- 1) Animals seized in cruelty cases have no meaningful financial value
- 2) The only way to recover any little financial value they do have is to sell them and that is certainly not advisable in commercial dog breeding, hoarding, animal fighting or other typical cruelty cases
- 3) The process of recovering money from a lien is extremely burdensome for ND counties, municipality's nonprofit organizations, and anyone else who may care for the animals
- 4) Owners should be responsible for the care of their animals during the criminal process – not just after. HSUS works on thousands of animal cruelty cases and we have never seen a lien provision similar to ND's used to the benefit of an agency.

Intent of the bill

The intent of the bill is to provide another option for law enforcement, and prosecutors, to effectively handle the financial cost of cases related to animal neglect, abuse, and cruelty. It is also our intent to not change any language added by the 2013 Legislature, but merely create a new procedure – another option – for law enforcement to use. You'll see no language is overstruck. If it seems the language in the bill does not match up with the intent, we are more than willing to work with the committee to ensure everything is copacetic.

House Bill 1301

Section 1, subsections 1 and 2 maintain existing language – language that was passed in 2013. Nothing is being removed nor added to these subsections.

Subsection 3 is new language creating the civil hearing procedure, separate from the criminal trial, in which a judge determines whether there is sufficient evidence of animal cruelty to require the owner to pay the reasonable costs of caring for his/her animal while the criminal case is adjudicated.

The civil hearing procedure begins with page 1, Lines 19 – 22; allowing law enforcement, or a prosecutor, to file a petition with the court requesting the court to issue an order requiring the owner of the animal to post a bond to satisfy all reasonable costs of care of the animal while in the custody of the law enforcement agency.

Lines 22 – 23 designates the court shall hold a hearing regarding the petition within twenty (20) business days after the petition is filed. When drafting this bill, speaking with a handful of lawmakers and legal professionals, we extended the original version from 14 days to 20 to allow for some additional flexibility.

Line 23-24 and Page 2, lines 1-6 ensures the defendant is given proper notification of the filed petition.

Page 2, lines 6-12 If it is determines that probable cause exists, the owner of the animal shall pay within five (5) business days after the issuance of the order, in an amount determined by the court to be sufficient to pay all reasonable costs incurred from the date of seizure and anticipated to be incurred the first 30 days. Reasonable costs is defined in the bill as: food, water, shelter, and any necessary medical care – all costs an owner is already legally required to pay and also similar to existing law under 36-21.2-06 – Law Enforcement – Duty Upon Seizure.

It's important to note that this legislation provides an optional tool for law enforcement and the owner, at any time, can voluntarily relinquish the animal and be absolved of financial responsibility.

Page 2, line 12 – 14 gives law enforcement the authority to draw from the amount.

Page 2, Line 14 – 16 requires the animal's owner to post the fee every 30 days while they retain ownership of the animal.

Lines 16-19 – If the owner refuses or is unable to pay for the care of his or her animals, the law enforcement agency that seized the animal may sell the animal, place the animal for adoption, or humanely destroy the animal.

Lines 19-20: The owner must be reimbursed for any bond paid if found not guilty of a violation of this chapter.

Lastly, Subsection 4 says If the owner has two or less animals seized and the owner of the animals, at a hearing, can prove indigence, the court may reduce or waive the costs of care under this section. Indigence is defined as, “

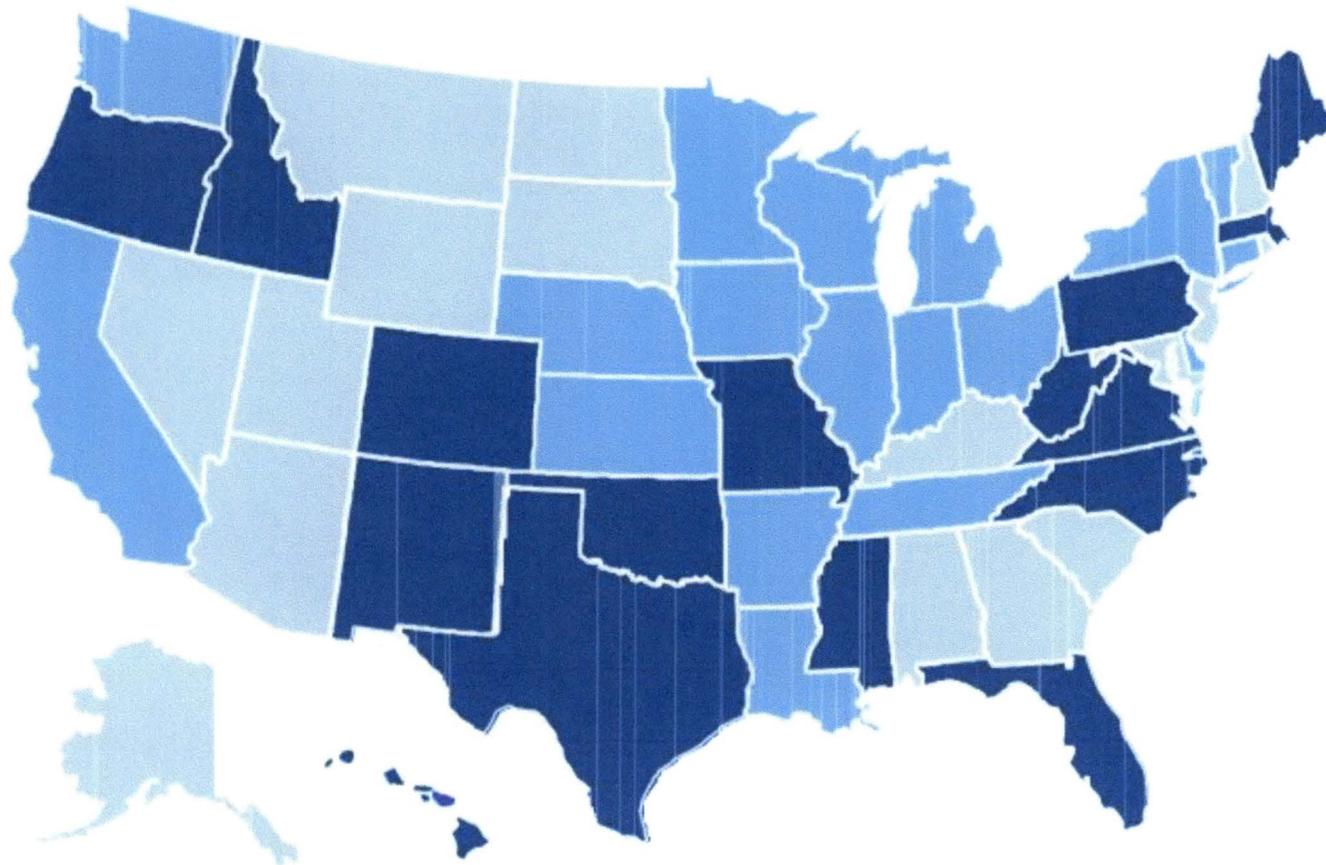
Animal cruelty cases can put a huge strain on local agencies.

Seizures of animals can put a tremendous burden on an agency charged with caring for the animals long-term. Even a small-scale seizure can put an overwhelming financial and operational strain on an animal control agency and the overall county budget. Cruelty cases can take months, or even years, to go to trial. Caring for animals over these long periods of time comes at significant cost to taxpayers and the animals. When animal control agencies are routinely saddled with the costs of caring for seized animals, they have fewer resources to help homeless animals, ensure public safety, and provide other life-saving services to the community.

House Bill 1301 is good for abused and neglected animals, while being fair to the owner.

HB 1301 creates a civil hearing procedure, separate from the criminal trial. We believe it is unfair for North Dakota municipalities, shelters and counties to have to pay the significant cost of caring for abused and neglected animals, when it is the owner who is legally responsible for their care. It is important to leave the responsibility of animal care with the owner, not with the government. We ask for your favorable recommendation of a bill that would simply provide for an additional tool for law enforcement that is proven to work, as 35 states already have a similar mechanism in law for animal neglect, abuse, and cruelty cases. For these reasons, we ask for your favorable consideration on House Bill 1301. Thank you.

COST OF ANIMAL CARE LAWS BY STATE



Animal cruelty cases can involve the seizure of dozens or even hundreds of animals. Providing care for the animals for months or years pending trial can be financially devastating to county animal shelters and to the well-being of these abused animals.

-  Effective COAC law
-  Less Effective COAC law
-  No Effective COAC law

Cost of Animal Care

How does the Cost of Animal Care Law work?

- an agency caring for lawfully seized animals in a cruelty case is given the opportunity to request the owner/defendant pay a bond to cover the cost of care
- if the owner/defendant fails to pay for the care of his or her lawfully seized animals, the animals are released to the seizing agency and can be placed for adoption
- the COAC law will significantly reduce the cost of seizing animals from cruelty – which is good for animal shelters, taxpayers, and animals.

How is the amount of bond determined?

- the amount required to provide for the costs of caring for the animals is determined in a court of law based on evidence presented to a judge
- onus is on the petitioner requesting the bond payment to prove the reasonableness of the amount of the bond requested
- the COAC law specifies what can be included in the costs of animal care the bond will cover

How is it right to take an animal from someone who hasn't been convicted of animal cruelty?

- the purpose of the cost of animal care law is not to take animals from their owners
- the purpose of the law is to provide funds to cover the cost of caring for animals lawfully seized based on evidence of illegal cruelty
- animals are only relinquished if the owner/defendant fails to pay the bond requested
- it is unfair for struggling shelters and counties to pay the entire cost of caring for the seized animals when it is the owner who is legally responsible

Isn't it wrong to deprive a person of property rights without a conviction?

- the petitioner first has to prove in a court of law that there was probable cause to seize the animals based on evidence of cruelty
- it is not uncommon to be deprived of property rights for less than a criminal conviction
- civil actions regularly deprive people of property rights based on a preponderance of the evidence
- OJ is an example – acquitted of murder and then later deprived of property in a civil case

What happens if the person is acquitted?

- the owner/defendant is still responsible for the care of his or her animals who were seized and, typically, the costs of animal care payment will not be returned
- much like an impoundment fee for a stolen car, or a pet who escaped and was picked up by animal control, there are fees associated with government services
- the owner is legally responsible for the care of his or her animals, regardless of the outcome of the criminal case
- if there is any evidence the seizure was in bad faith or malicious, there are legal avenues available to the owner to contest the seizure and have the animals returned
- otherwise, COAC laws provide that the cost of animal care payment be returned if the defendant is acquitted

What if the defendant doesn't have any money to post bond?

- COAC laws may have an indigent exception for a small number of pets (varies by state)
- any person, family, organization or business that owns animals has a legal responsibility to provide for their care
- it is important to leave the responsibility of animal care with the owner, not with the government
- if the owner/defendant doesn't have the money to care for his or her animals, they will be relinquished so they can be placed for adoption

Doesn't this give too much power to local animal agencies?

- the COAC law does not give local animal agencies more power to seize animals
- the COAC law merely provides a legal process to provide for the care of such animals
- the onus is on the petitioner, the agency holding the animals, to prove in a court of law that the seizure was lawful and the bond requested is reasonable
- as always, the owner has the opportunity to challenge the legality of the seizure and the reasonableness of the bond requested
- it is unfair for counties and taxpayers to pay the significant cost of caring for seized animals when it is the owner/defendant who is legally responsible
- the law provides a balanced approach between the right of the owner and the rights of the taxpayers

Isn't this bill discriminatory against indigent defendants who may not have the money to post the bond?

- everyone is treated the same under the COAC law, regardless of wealth or income
- failing to provide a minimum standard of care for animals you own is a crime
- there is no right to own an animal
- however, there is a legal obligation to provide for their care, regardless of one's wealth or income

How does this law differ from typical civil forfeiture where someone doesn't even have to be charged with a crime to lose his or her cash, car or home?

- with civil forfeiture, there is a financial incentive for government agencies to seize property of value, such as cash, a car or a house.
- with the COAC law, there is no financial incentive for agencies to seize animals – it will always be a financial cost to the agency
- civil forfeiture laws typically put the burden of proof on the owner to get his or her property returned
- the COAC law puts the burden of proof on the agency that has custody of the lawfully seized animals to request a bond payment
- the COAC law provides significant due process for the owner/defendant

Shouldn't this law only apply to cases of felony animal cruelty?

- a COAC law is not a punishment to the owner who is accused of animal cruelty
- rather, the law provides a legal process to provide for the care of legally seized animals
- the level of crime has no significance to the agency or county that is burdened with the significant cost of animal care in a large cruelty case

How does this law protect the due process rights of the animal owner?

- the COAC law provides several layers of due process protection for the owner/defendant
 - provides notice to the owner that a hearing will be set to determine the reasonable costs of caring for the seized animals
 - allows the owner to challenge the legality of the seizure and the amount of the bond required
 - puts the burden on the agency seeking a bond to prove the reasonable costs of caring for the animals and the legitimacy of the animals' seizure
 - sets an expedited schedule for the bond hearing

What if the defendant can't afford to care for your animals?

- if the owner/defendant can't afford to care for his or her animals, then the animals need to find a new home
- failing to provide a minimum standard of care for an animal is a crime – it applies to everyone regardless of income
- the responsibility of pet care is with the owner, not the government
- the COAC law typically does not apply to a family or individual who has one or two pets

What if the person charged with cruelty has custody of the animal but is not the owner?

- agencies have no motivation to hold animals who could otherwise be with their innocent owners
- an owner has the right to argue to have his or her animals returned at the costs of animal care hearing
- animals can returned to the innocent owner while the case continues to be prosecuted against the defendant

How does this law compare with how children are handled in abuse cases?

- it is much more difficult to sever the rights of parents from children than it is to release animals from their owners
- there is a constitutionally protected right to be a parent
- there is no constitutionally protected right to own an animal

What happens to the animals after they are released?

- after the animals are released, they can be placed in adoptive homes or with rescue
- the cost of caring for animals can still be substantial after they are released– but significantly less than it would be without the COAC law

REGISTER OF ACTIONS

CASE No. 08-2016-CR-00402

[Make Payment](#)

State of North Dakota vs. Eugene Antwainn Washington

§
§
§
§
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§

Case Type: Felony
Date Filed: 02/10/2016
Location: -- Burleigh County
Judicial Officer: Romanick, Bruce A
State's Attorney Case Number: F221-16-02

PARTY INFORMATION

Defendant  Washington, Eugene Antwainn
Bismarck, ND 58504

Male
DOB: 1984
SSN: XXX-XX-0316

Attorneys

Plaintiff State of North Dakota

DOB: 1988

Melanie Price Dornonville de la Cour
701-355-1340 x0000(W)

CHARGE INFORMATION

Charges: Washington, Eugene Antwainn
1. Animal cruelty

Statute
36-21.2-03

Level
Felony C

Date
08/15/2014

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

- 02/10/2016 **Complaint** Doc ID# 1
w/Affidavit
- 02/10/2016 **Warrant of Arrest Issued** Doc ID# 2
- 02/10/2016 **Initial Appearance** (3:30 PM) (Judicial Officer Hill, James S)
Result: Hearing Ended
- 02/10/2016 **Sheriff's Return Served** Doc ID# 3
Warrant of Arrest - Served
- 02/10/2016 **Warrant of Arrest Served** Doc ID# 4
- 02/10/2016 **Bond** Doc ID# 5
Order - 10% of \$1000 cash; atty app; no pets
- 02/12/2016 **Application for Appointed Defense Services** Doc ID# 6
Approved
- 02/12/2016 **Notice of Eligibility for Appointed Counsel** Doc ID# 7
- 02/12/2016 **Assignment** Doc ID# 8
Assignment of Counsel-Kent Morrow
- 02/12/2016 **Notice of Hearing** Doc ID# 9
- 02/16/2016 **Notice** Doc ID# 10
Notice of Appearance
- 02/16/2016 **Rule 16 Discovery Request** Doc ID# 11
Rule 16 Request for Discovery
- 02/16/2016 **Service Document** Doc ID# 12
Certificate of Service - SAO
- 03/04/2016 **Response** Doc ID# 13
First Response to and Request for Discvry and Notice of Intent to use Evidence
- 03/04/2016 **Service Document** Doc ID# 14
Affidavit of Service by email
- 03/07/2016 **Request** Doc ID# 15
Request for Resetting Trial/Hearing
- 03/07/2016 **Proposed Order** Doc ID# 16
Order for Resetting Trial/Hearing
- 03/10/2016 **Order** Doc ID# 17
Granting Resetting of Preliminary Hearing
- 03/10/2016 **Notice of Hearing** Doc ID# 18
- 03/21/2016 **Response** Doc ID# 19
Second Response to and Request for Discovery and Notice of Intent to use Evidence
- 03/21/2016 **Service Document** Doc ID# 20
Affidavit of Service by email
- 04/04/2016 **Preliminary Hearing and/or Arraignment** (2:15 PM) (Judicial Officer Grinsteiner, John)
03/21/2016 Reset by Court to 04/04/2016
Result: Preliminary Hearing Held
- 04/04/2016 **Information** Doc ID# 21
- 04/04/2016 **Scheduling Order** Doc ID# 22
- 04/20/2016 **Motion** Doc ID# 23
Motion to Amend Information

8

04/20/2016 **Notice Doc ID# 24**
Notice of Motion to Amend Information

04/20/2016 **Brief Doc ID# 25**
Brief

04/20/2016 **Proposed Order Doc ID# 26**
Amended Information and Order (B. Johnson)

04/20/2016 **Service of Motion Doc ID# 27**
Affidavit of Service by Electronic Filing

04/22/2016 **Response Doc ID# 28**
Third Response to and Request for Discovery and Notice of Intent to Use Evidence

04/22/2016 **Service Document Doc ID# 29**
Affidvit of Service by Email

05/03/2016 **Order Doc ID# 30**
Accepting Amended Information

05/03/2016 **Information Doc ID# 31**
Amended

07/12/2016 **CANCELED Felony Jury Trial (9:00 AM) (Judicial Officer Romanick, Bruce A)**
Other

07/12/2016 **Criminal Hearing (8:30 AM) (Judicial Officer Romanick, Bruce A)**
- appearance only
 Result: Hearing Ended

07/13/2016 **Bench Warrant Issued Doc ID# 32**

10/19/2016 **Motion Doc ID# 33**
Motion for Leave to Withdraw as Counsel

10/19/2016 **Proposed Order Doc ID# 34**
Order for Leave to Withdraw as Counsel - Kent Morrow

10/19/2016 **Service of Motion Doc ID# 35**
Certificate of Service - SAO

11/01/2016 **Order Doc ID# 36**
for Leave to Withdraw

11/03/2016 **Service Document Doc ID# 37**
Certificate of Service - SAO and Eugene Washington

 FINANCIAL INFORMATION

	Defendant Washington, Eugene Antwainn	
	Total Financial Assessment	35.00
	Total Payments and Credits	0.00
	Balance Due as of 01/31/2017	35.00
02/12/2016	Transaction Assessment	35.00

9

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

IN DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT

State of North Dakota,)
)
 Plaintiff,)
)
 -vs-)
)
 Eugene Antwainn Washington,)
)
 Defendant.)
)

COMPLAINT

SA #F221-16-02
Cr. No. 082016 CR 402

STATE OF NORTH DAKOTA)
) ss.
 COUNTY OF BURLEIGH)

The undersigned complainant, being first duly sworn, says that on or about the 31st day of March, 2015 through 15th day of August, 2015, in Burleigh County, the above named defendant, Eugene Antwainn Washington, did commit the crime of **Animal Cruelty**, committed as follows:

The defendant intentionally engaged in animal cruelty; specifically, the defendant broke the leg of a dog or caused prolonged impairment of a dog's health by leaving a broken bone untreated

N.D.C.C. 36-21.2-03(1)
12.1-32-01(4)

CLASS C FELONY

this contrary to the statute in such cases made and provided and against the peace and dignity of the State of North Dakota.

WHEREFORE, Complainant prays that the Defendant, Eugene Antwainn Washington, may be arrested and dealt with according to law.

Paul McCool
Complainant

Subscribed and sworn to before me this *9th* day of February, 2016.

My Commission Expires December 31, 2019
Notary Public
State of North Dakota
MICHELLE E. LEVAY

My Commission Expires December 31, 2019
Notary Public
State of North Dakota
MICHELLE E. LEVAY

Notary Public
Burleigh County, North Dakota
MICHELLE E. LEVAY
Notary Public
State of North Dakota
My Commission Expires December 31, 2019

Warrant Approved:

Melanie laCour #07878
Melanie laCour, Assistant State's Attorney
Burleigh County, North Dakota.

Jessie Jane
District Judge

STATE OF NORTH DAKOTA)
) SS.
COUNTY OF BURLEIGH)

AFFIDAVIT

I April McCarthy, attest to the following:

1. That I am a trained and licensed peace officer with 5 years of experience with jurisdiction to enforce state law in the city of Bismarck, Burleigh County, North Dakota. I have been employed with the Bismarck Police Department since June, 2010.
2. That I have training and experience as a police officer. My training includes the North Dakota State Police Academy, Advanced Roadside Impaired Driving Training, and I am a certified Drug Recognition Expert.
3. That between 3/31/2014-8/15/2015 at approximately 1728, in Burleigh County, North Dakota at 124 Georgia Street, Bismarck ND.
4. The suspect was identified as Eugene Washington and is 31 years of age.
5. The following gives rise to probable cause to charge the suspect with:
Animal Cruelty NDCC 36-21.2-03 F(C)
6. **Circumstances and/or other facts:**

On 8/15/15, I responded to the listed residence for an animal call. Animal control had responded to the listed address on seven prior occasions regarding animal neglect/abuse allegations made by neighbors from 3/31/15, until the listed date. On 3/31/15, neighbors began reporting to animal control their witness of abuse/neglect towards the animals within the home.

On 8/15/15 at 0917, Animal control had responded to the listed address. During that time, a brown and white pitbull ("King") was left secured in a tin shed. Eugene had been told that the current heat from high temperatures made the conditions within the shed unsafe to leave a dog confined in. The dog was then secured outside until neighbors contacted law enforcement at 1728, as King had reportedly been left outside since the earlier incident. On this day, the high temperature was 105 degrees. At the time of my response, the temperature was 99 degrees.

I arrived and saw King in front of the trailer's deck. King continuously panted in between his barking. Panting is the manner in which a dog sweats. The dog was on a leash that was approximately 2-3 feet in length, which allowed only slight access to underneath a deck. This deck only partially blocked the sun. There was a bucket on the deck but it was unclear whether there was water inside. If there had been water, it was unclear whether the water was too hot due to the intense heat of the day. Furthermore, the leash for King was so short that it was unclear whether the dog had access to the bucket. I observed King constantly lifting his rear hind leg off of the ground. A neighbor had previously reported that King has shown pain in his hind leg ever since they witnessed Eugene striking King, and another dog previously owned, with a hockey stick approximately one year prior to the date of the incident.

A warrant to seize the dog was applied for and granted. Following King's seizure, he was taken to Lewis and Clark Animal Hospital. Upon X-Ray examinations, it was discovered that King had a

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fractured left femoral neck (also known as the neck of the femur), which was the cause of his leg lameness. A femoral neck fracture occurs just below the ball of the ball and socket hip joint. The Veterinarian who medically treated King was unable to determine an exact time frame the dog had suffered from this injury. The Veterinarian was able to determine that the minimum time frame King could have suffered this injury without receiving proper medical attention from his owner was two weeks. One month later, a follow up examination on King was conducted. At that time, another x-ray was taken and it was determined that surgical intervention and/or a prosthetic leg were medical necessities in treating King.

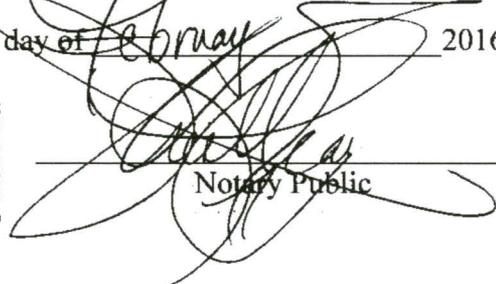
At the time of the incident, Eugene was asked about medical treatment for King. Eugene admitted to knowing about King's leg lameness and claimed to have taken him in for medical treatment but has since been unable to provide any such evidence.

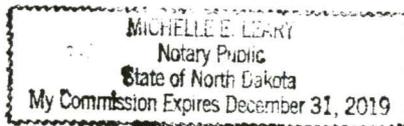
Probable cause was established that Eugene had caused the prolonged impairment of an animal's health, which is Animal Cruelty as defined in NDCC 36-21.2-03.

Dated this 9th day of February, 2016.

Subscribed and Sworn before me on the 9th day of February 2016


Peace Officer/Affiant


Notary Public



Andrew Delain

REGISTER OF ACTIONS

CASE No. 08-2016-CR-02847

State of North Dakota vs. Julia Ann Littlemoon

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§
§
§
§
§

Case Type: Misdemeanor
Date Filed: 09/22/2016
Location: -- Burleigh County
Judicial Officer: Schneider, Thomas J
State's Attorney Case Number: M 1991-16-09

PARTY INFORMATION

Defendant	Littlemoon, Julia Ann Fort Yates, ND 58538	DOB: 1967 SSN: XXX-XX-6835	Attorneys Kyle M Melia Public Defender 701-328-7190 x0000(W)
Plaintiff	State of North Dakota	DOB: 1988	Andrew Daniel Delain 701-222-6672 x0000(W)

CHARGE INFORMATION

Charges: Littlemoon, Julia Ann	Statute	Level	Date
1. Animal neglect	36-21.2-01 (1)	Misdemeanor A	08/17/2016

EVENTS & ORDERS OF THE COURT

DISPOSITIONS

10/27/2016	Plea (Judicial Officer: Schneider, Thomas J) 1. Animal neglect Guilty		
10/27/2016	Disposition (Judicial Officer: Schneider, Thomas J) 1. Animal neglect Pled Guilty		
10/27/2016	Rule 43 Criminal Judgment (Judicial Officer: Schneider, Thomas J) 1. Animal neglect 08/17/2016 (MA) 36-21.2-01 (1) (36212011)		
	Condition - Adult:		
	1. Violate No Criminal Laws, 10/27/2016 - 10/27/2017, Active 10/27/2016		
	2. Unsupervised Probation, 10/27/2016 - 10/27/2017, Active 10/27/2016		
	3. Submit to Fingerprints, 10/27/2016 - 10/27/2017, Active 10/27/2016		
	Fee Totals:		
	Criminal Administration Fee		\$200.00
	Defense/Facility Admin Fee		\$100.00
	Victim-Witness Fee		\$25.00
	Fee Totals \$		\$325.00
	Confinement:		
	Agency: Department of Corrections and Rehabilitation, Term: 1 Year		
	Suspended: 1 Year		
	Probation: 1 Year		

OTHER EVENTS AND HEARINGS

09/22/2016	Complaint Doc ID# 1 w/ Affidavit
09/22/2016	Criminal Summons Issued Doc ID# 2
09/30/2016	Criminal Summons Served Doc ID# 3
09/30/2016	Sheriff's Return Served Doc ID# 4 Criminal Summons - Served
10/05/2016	Initial Appearance (9:30 AM) (Judicial Officer Schneider, Thomas J) Result: Hearing Ended
10/05/2016	Scheduling Order Doc ID# 5
10/05/2016	Application for Appointed Defense Services Doc ID# 6 Approved
10/05/2016	Notice of Eligibility for Appointed Counsel Doc ID# 7
10/05/2016	Assignment Doc ID# 8 Assignment of Counsel - Kyle Melia
10/06/2016	Rule 16 Discovery Request Doc ID# 9 Demand for Discovery
10/06/2016	Service Document Doc ID# 10 Affidavit of Service-State's Attorney
10/12/2016	Response Doc ID# 11 First Response to and Request for Discovery and Notice of Intent to use Evidence
10/12/2016	Service Document Doc ID# 12

10/26/2016 *Affidavit of Service by email*
Proposed Order Doc ID# 13
Proposed Rule 43 Acknowledgment of Rights, Written Plea of Guilty, Waiver of Appearance, and Order - Kyle Melia
 10/27/2016 **Motion Doc ID# 14**
Motion for an order directing the animals disposition - A. Delain
 10/27/2016 **Notice Doc ID# 15**
Notice of Motion for an order directing the animal's disposition - A. Delain
 10/27/2016 **Service of Motion Doc ID# 16**
Affidavit of Service by Electronic Filing - A. Delain
 10/27/2016 **Notice Doc ID# 17**
Notice of Consent to State's Motion for Disposition
 10/27/2016 **Service Document Doc ID# 18**
Certificate of Service - Andrew Delain
 10/31/2016 **Order Doc ID# 19**
Accepting Plea Agreement
 10/31/2016 **Criminal Judgment Doc ID# 20**
Plea Agreement
 11/01/2016 **Proposed Order Doc ID# 21**
Order - Andrew Delain
 11/02/2016 **Order Doc ID# 22**
Regarding Animal
 01/03/2017 **CANCELED Final Dispositional Conference (9:00 AM)** (Judicial Officer Schneider, Thomas J)
Case Closed
 01/05/2017 **CANCELED Misdemeanor Jury Trial (9:00 AM)** (Judicial Officer Schneider, Thomas J)
Case Closed

FINANCIAL INFORMATION

	Defendant Littlemoon, Julia Ann		
	Total Financial Assessment		360.00
	Total Payments and Credits		360.00
	Balance Due as of 01/31/2017		0.00
10/05/2016	Transaction Assessment		35.00
10/05/2016	Counter Payment	Receipt # 08-2016-15337	(35.00)
10/31/2016	Transaction Assessment		325.00
11/01/2016	Counter Payment	Receipt # 08-2016-16780	(325.00)

2

HB1301

2-2-17

#5

Chairman Klemin and members of the committee, my name is Dr. Marie Henderson, I am a private practicing licensed veterinarian and owner of Henderson Veterinary Service in Glen Ullin, N.D.

I stand here asking for your support of House Bill 1301. I support any opportunity to provide law enforcement with an extra tool to better enforce the law, particularly the animal cruelty section. In this case, HB1301 adds an extra opportunity to make sure all costs associated with lawfully seized animals are placed on the owner, rather than any other entity that may care for the abused animals prior to their disposition determination.

Veterinary Care for animals is expensive. Depending on the circumstances, some cases can be more expensive than others. I recently helped provide care for many dogs, lawfully seized from Mott, N.D. Of the dogs I cared for, they had many physical and health issues that needed to be addressed right away.

Common things we run into with these cases are animals needing to be sedated and shaved due to the animal being so matted that it is painful to the animal. The animal is very upset, fractious, and scared so it requires sedating the animal prior to any grooming. We ran into this issue with the dogs from Mott.

Expenses per dog can be:

Shaving is about \$35 and sedation runs about \$35. Then, if the animals are sick, you could be looking at Fecal at \$15, Dewormer is around \$10, Blood work runs about \$100, and X-rays at \$75. To add more to this growing bill, the initial hospitalization can be \$50+ per day and other medical care, such as the use of IV fluids, can be about \$80+ and then \$18+ bag of fluids depending on type of fluids used.

Veterinary costs also depend on the area and what each clinic charges. Some clinics do offer discounts in cruelty cases, which helps decrease the cost of caring for the animal. However, despite their best efforts to decrease costs, the bills still add up to considerable amounts.

Typically, dogs seized in neglect cases have not received their rabies vaccination, distemper, or other shots they require as puppies. Upon lawful seizure, these vaccines are often required – along with others depending on each animal.

Included in my testimony is a generic breakdown of costs typically associated with animals upon their lawful seizure. As you can see, many vaccinations can be administered quickly and add up quickly.

We hope you will give this bill a Do Pass Recommendation. It's a simple bill that merely puts the costs on the owner, rather than the taxpayers and nonprofits, if the lawfully seized animals are to be in the care of the seizing agency for a long period of time.

Thank you.

Basic care for dogs seized:

Rabies: \$15-\$30

DA2PP (Distemper): \$15- \$30

Spay: \$148-\$700 (Dependent upon the dog's weight and if they are in heat or pregnant)

Neuter \$138-\$600 (Dependent upon the dog's weight)

Just for Rabies, DA2PP and spay you are looking at a minimum of \$178, and for shots and neuter a minimum of \$168

Basic care for cats seized:

Rabies: \$15-\$30

FVRCP (distemper): \$12-\$30

Spay: \$125-\$250

Neuter: \$55-\$150

Just for Rabies & distemper and a neuter you are looking at a minimum of \$82 and for a spay, a minimum of \$152.

For Dogs:

Bordetella \$18-\$30

Heartworm/Lymes/Ehrlichia/Anaplasmatetest \$41

Heartworm prevention \$36 (depending on the product)

Flea & Tick for 3 months \$42 (depending on the product)

For Cats:

FELV \$25-50+

FELV/FIV/HEARTWORM \$44+

Flea & tick for 3 months is \$39+ (depending on the product)

Heartworm \$48+ (depending on the product)

For Horses:

Rabies is \$15-\$30+

Eastern Western Tetanus + West Nile is \$30+

Castration \$100+

Dewormer \$23+

For Cattle:

7 way (Clostridium: Chauvoei, Septicum, Novyi, Sordellii, Perfringens Type C&D Toxoid) \$6+ per 10 dose bottle (Because they don't sell individual doses)

Bovine Rhinotracheitis, Viral Diarrhea, Parainfluenza, Respiratory Syncytial Virus Vaccine \$15+ per 10 dose bottle (Because they don't sell individual doses)

Castration \$20+ per animal

Dewormer \$30+

Chairman Klemin, and members of the House Political Subdivision Committee, my name is Julie Schirado, a founding member of Furry Friends Rockin Rescue operating in the greater Bismarck/Mandan area, and surrounding region.

On behalf of our Rescue, I want to thank you for this opportunity to testify in support of House Bill 1301.

Our organization was formed a year and a half ago in order to assist the animal impound facility and take some of the burden off of our local animal shelters.

In that year and a half, we have seen that during animal seizure cases, nonprofit organizations are called upon to assist law enforcement with the day-to-day tasks of caring for the seized animals. Just this past November, Furry Friends picked up 10 dogs from Mott, ND who were lawfully seized along with another 40 dogs that went to other shelters around the state.

When it comes to cases like these, many are unaware of what it takes to financially care for a lawfully seized animal as well as the time it takes to individually rehabilitate an animal, as well as the work an organization endures to ensure these animals find new, loving homes. I currently have one of our Mott dogs in my home. He has been with us since the first week of November and I have hardly touched him, aside from trapping him to administer veterinary care. I

expect him to be with me for another year.

These large seizure cases force organizations and caring North Dakotans to pick up the tab through donations of food, time and labor. Last June, 64 dogs were seized from a home in Kathryn, ND, where we saw great support from North Dakotans across the state – The co-founder of the rescue assisting law enforcement struggled to find temporary homes through other animal shelters and rescues – because the other organizations had no idea how long they may have the animals in their care and what kind of financial burdens they may have to assume. I remember driving home from Valley City with 5 of the 9 Heelers we took in trying to figure out how as an organization we were going to be able to afford their cost of care. In the meantime, prior to rescues and shelters assuming responsibility, law enforcement agencies are the ones paying the bills for the care of these lawfully seized animals.

This problem happens all too often as nonprofits have to weigh whether they can financially care for even just a couple animals in cases like Kathryn for an undetermined amount of time. House bill 1301 is a mechanism that will give organizations like mine some breathing room knowing there is another option to help put the cost of care for animals where it belongs – on the owners – this is the only fair way to do it!

Thank you and I would greatly appreciate a do pass from your committee on HB1301.

HB 1301

2-2-17

#7

HETTINGER COUNTY STATE'S ATTORNEY'S OFFICE

336 Pacific Avenue
Mott, ND 58646
(701) 824-2329
apikovky@nd.gov

February 2, 2017

Dear Chairman Klemin and Members of the Committee:

I am writing in support of North Dakota House Bill 1301 which would allow prosecutors to petition the court for an order that a criminal defendant post a reasonable bond to cover costs of animal care during the pendency of animal cruelty cases.

Hettinger County law enforcement seized sixty dogs in October of 2016 as part of an animal cruelty and neglect case. Some of the biggest concerns for both the Sheriff's Department and my office were the costs of providing necessary care to the seized animals and the length of time that the County would need to be responsible for those costs. As a small county, we do not have animal control staff or facilities. We were faced not only with removing the animals from the home, but also with finding appropriate facilities to house them, manpower to feed and clean cages, a grooming facility to wash the dogs, and a veterinarian to provide basic medical care so that the animals could be safely handled by volunteers and, later, by rescue groups.

Fortunately, in our case the owners voluntarily gave up ownership of the animals to the County, allowing us to act quickly to remove the animals and to turn over custody to multiple rescue organizations within a matter of days. The County's financial responsibility for the dogs ended when they were taken into rescue. However, even if this had not been the case, we would have had no choice but to remove the animals immediately based on information suggesting that they had been without food, water, and other care for several days.

It is difficult to estimate a total cost for the animal care that resulted as a result of this seizure. Ultimately, Hettinger County incurred only the costs of deworming and initial vaccinations for Rabies and Distemper for fifty dogs totaling \$2,266.00. Twenty-seven of the seized dogs had to be bathed and groomed before being placed in rescue, a service that was donated but which would have cost \$675.00. All of the dogs seized in this case were intact, and the cost of spaying and neutering sixty small dogs would have ranged from \$150 to \$300 per dog. At least three of the dogs seized were pregnant and incurred additional medical bills during whelping. Finally, it is impossible to estimate the cost of feeding the sixty original dogs and all of the puppies born since October for the pendency of the case, which is still unresolved as of this date.

All of the items described above are normal costs associated with owning a pet and with providing the minimum standard of care as required under North Dakota Century Code Section 26-21.2. In this instance, bathing and grooming were necessary from a medical perspective as the dogs were all covered in urine and feces, had severely overgrown nails, several had hair loss and burns on their skin from persistent contact with waste material, and a few had such severely matted hair that they were unable to see or move normally.

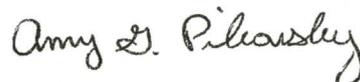
Hettinger County was extremely fortunate to have the cooperation of the animals' owners, time and labor donated by volunteers, discounted pricing from the groomer and veterinarians, and the assistance of several rescue groups; all of these factors helped to decrease the cost to the County. However, even during the six days that the County retained ownership of these dogs, the costs of animal care were significant. The County had no way to budget for these expenses since they were unanticipated as we do not see this type of case frequently. If the County had been required to hold the dogs as evidence for the entirety of the criminal case the costs would quickly have become unmanageable and the County does not have a contingency plan for this sort of situation.

In my opinion, one of the most important provisions of the proposed bill is that, in the event that the animal owner cannot post the reasonable bond as ordered, the animal owner can instead turn over ownership of the animal to the County. If an animal owner is unable to pay, they do not run the risk of serving jail time until bond can be posted. This would be one more expense that the County would have to pay, which is counterintuitive to the intent of the bill. Further, it may prove to be a good incentive to animal owners who have been charged with cruelty to give up their ownership rights so that the County can place the animal(s) with an appropriate rescue. I have often seen court orders forbidding those accused or convicted of animal cruelty from possessing any animal, either as a condition of release or for the duration of probation upon conviction. Where this is the likely outcome of an animal cruelty charge, it seems reasonable to encourage the animal owner to relinquish ownership of the animal(s) at the onset of the case rather than at its conclusion.

House Bill 1301 would provide necessary assurances to counties that they would not have to bear the long-term financial burden of providing necessary animal care in animal seizure cases and would prevent any delay in seizing abused or neglected animals based on financial constraints or uncertainty. Please support House Bill 1301.

If you have any questions or require anything further from me, please do not hesitate to contact me. Thank you for your time and consideration

Sincerely,



Amy G. Pikovsky
Hettinger County State's Attorney

HB 1301

2-2-17

#8

Klemin, Lawrence R.

From: jellingson@ndstockmen.org
Sent: Sunday, January 29, 2017 10:58 PM
To: Klemin, Lawrence R.; Hatlestad, Patrick R.; Beadle, Thomas R.; Becker, Richard S.; Ertelt, Sebastian; Guggisberg, Ron L.; Hanson, Karla R.; Johnson, Mary C.; Koppelman, Kim A.; Longmuir, Donald; Maragos, Andrew G.; Pyle, Brandy L.; Simons, Luke; Toman, Nathan P.; Zubke, Denton B.
Subject: Opposition to HB 1301

***** CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

Good evening, House Political Subdivisions Committee members.

I will be attending our national convention this week, so I will be gone from the capitol several days, including Thursday, when your committee will be hearing HB 1301, related to bonding for the cost of care for seized animals.

The Stockmen's Association wants to go on record in opposition to this bill. Our organization was part of a broad coalition of animal industry stakeholders that worked on a full rewrite of the animal treatment statute in SB 2211, which was passed in the 2013 session. The coalition was comprised of entities representing animal agriculture, shelters, zoos, law enforcement, veterinarians, the Ag Department, the Board of Animal Health and others. The coalition worked together over many, many months to develop a comprehensive bill that would protect all animals and those who care for them and to make sure that the penalties assessed properly fit the severity of the crime.

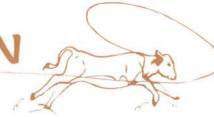
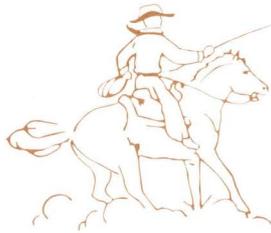
The coalition dedicated considerable time to the section pertaining to seizure, especially. Existing law reflects the consensus of the diverse stakeholders who wanted to make sure that 1) animals were being cared for; 2) a clear process was spelled out for law enforcement and others to follow in these situations; and 3) a person was innocent until proven guilty. HB 1301 muddies up the clear-cut process that is in existing statute. Plus, it penalizes a person before he or she is even convicted of a crime, and we have not heard that this is a problem in our state. We think HB 1301 is a step backward from what currently exists and would respectfully ask for your do-not-pass recommendation on the bill.

Another staff member may be able to attend the hearing, but, because we are short-staffed due to our national meetings this week, I wanted to reach out to you ahead of time to make sure you knew our position. If you have any questions, feel free to email me or call me on my cell at 701-214-7709. Also, I will be around tomorrow if you want to chat face to face.

Thank you for your consideration of our concerns.

Sincerely,
Julie Ellingson
North Dakota Stockmen's Association

North Dakota
STOCKMEN'S ASSOCIATION



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North Dakota Stockmen's Association
Testimony on HB 1301
Feb. 2, 2017

Good morning, Chairman Klemin and House Political Subdivisions Committee members. My name is Mary Goeres of the North Dakota Stockmen's Association. Julie Ellingson was unable to be here today, so I am appearing here on her and the NDSA's behalf and will read the statement that I passed out.

The North Dakota Stockmen's Association opposes HB 1301, which creates a complicated bonding requirement in animal seizure cases.

The Stockmen's Association was part of a diverse animal stakeholder coalition that worked together over a couple of years to prepare a comprehensive rewrite of North Dakota's animal treatment statute in a bill passed in 2013 – SB 2211. The coalition was comprised of animal agriculture, shelter, zoo, veterinarian, regulatory agency and county officials with an interest in protecting animals and those who care for them. The group dedicated many hours combing through the chapter to make sure that the language was right and the process was just, and we are pleased with the outcome.

Certainly, the sections pertaining to the seizure of animals comprised the most time, and the language in current law reflects the consensus of animal stakeholders. It provides clear-cut procedures, which 1) ensure that the animals are being cared for, and 2) the accused are innocent until proven guilty. They assume the cost of care if they are found guilty, but do not assume that cost if they are not.

HB 1301, unnecessarily muddies this process, creates extra time and expense for all parties involved and places the burden on the animal owner even before he or she has been found guilty. Additionally, it has been demonstrated that this is not a problem in our state.

For these reasons, we respectfully request a do-not-pass recommendation.



HB 1301 2-2-17 #10

North Dakota Veterinary Medical Association

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Testimony of Deana Wiese

North Dakota Veterinary Medical Association

In Opposition to HB 1301

February 2, 2017

Chairman Klemin and Members of the House Political Subdivisions:

My name is Deana Wiese, and I am representing the North Dakota Veterinary Medical Association (NDVMA). I am here today in opposition to HB 1301.

NDVMA has spent more than a century representing the interests of veterinarians, their clients and patients. Today, the organization has more than 275 members representing small, large animal, exotic, bovine and equine practitioners and those veterinarians working in research, academic and government capacities.

NDVMA feels HB 1301 is unnecessary as cost of seizure and care of animals is already addressed in Century Code for all animals. There was an immense amount of time and research that resulted in significant changes in prior sessions regarding the code on treatment of animals. Given this, NDVMA does not favor altering the code in this manner.

It is not difficult to market large animals that are seized, but it is different for small animals. They likely have little or no value, and many times the owner has limited funds, which was a contributing factor in the seizure of the animals.

This bill is unnecessary. Therefore, NDVMA encourages a Do Not Pass recommendation on HB 1301.