

October 23, 2007

Senator Larry Mumper, chairman
Senate Agriculture Committee
Senate Building
Room #222, Second Floor
Columbus, Ohio 43215



In re opposition to portions of Sub HB 71, amendments to animal fighting and animal cruelty laws:

OVDO is a coalition of dog clubs, dog-related businesses, and individual dog breeders, trainers, and owners. We have worked with lawmakers and government agencies on local and state matters involving dogs since the mid-1990s.

While we empathize with the difficulties faced by agencies that must enforce cruelty laws without sufficient funds, we judge legislation by its harmful impact on innocent dog owners. We therefore oppose legislation that allows seizure of animals without probable cause and suggests that dog owners are guilty of abuse prior to disposition of a case by the courts. Our specific objections to Substitute House Bill 71 are:

1. The provision allowing seizure of animals based on reasonable cause, a lesser standard than probable cause (lines 53-55). We also object to dropping the phrase "if the officer has lawful access to the companion animal at the time of the impoundment" from the current law (ORC 959.132 [B]).

2. The mandate that the owner post a bond for 30 days of animal care within 10 days of the notice of seizure (lines 80-96). This provision presumes that the impounding agency will assess the condition of the dogs and their living conditions, confer with a veterinarian, file the charges, work with the court to determine the bond amount, and notify the owner of that amount, all within the 10-day window. In addition, if the owner lacks the money for the bond, this requirement can result in loss of dogs before a probable cause hearing or a conviction. *Current law (ORC 959.132 [E]) protects the dog owner by directing the impounding agency to petition the court for the bond or deposit, back up its petition with an affidavit setting reasonable cost estimates for care, and provide probable cause for the seizure in a hearing.*

3. The section requiring the animal owner to request a probable cause hearing within 10 days of the notice of impoundment in the court where the charges have been filed (lines 98-108). This section presumes that the impounding agency will assess the condition of the dogs and their living conditions, gather evidence, confer with a veterinarian, file the charges, and notify the owner of the filing within that 10-day window. If charges are filed outside the 10-day limit, the owner will have lost his right to request a hearing. *Current law (ORC 959.132[D]) protects the owner's rights by allowing him to request a hearing after charges have been filed.*

4. No requirement for a court order or other determination of probable cause for the impoundment unless the animal owner posts the bond and requests the hearing within 10 days of the impoundment notice. *Current law requires probable cause (ORC 959.132 [B]); constitutional due process dictates that humane agents or other officers have a court order to enter private property and seize animals and that dog owners not face losing their animals until they are convicted.*

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5. The provision allowing impounding agencies to dispose of dogs prior to disposition of the case (lines 93-97).

6. The provision denying return of the bond or compensation for animals killed or sold by the agency if the owner has been acquitted of the cruelty charges but has failed to license his dogs. The penalty for failure to license a dog (ORC 955.01 [B]; ORC 955.05) is double the license fee. Exoneration of cruelty charges should not result in the same financial loss that would result from a guilty finding.

7. Failure of the bill to specifically protect the owner who cannot afford to post the bond. In cases of seizures of multiple animals, an owner may not have the money to post a bond for 30 days of potential expenses as determined by an agency that is not required to file an affidavit swearing that its estimates are reasonable. As a result, an owner may lose all of his animals before a court determines whether the agency had sufficient cause to impound them.

8. Failure to prevent the agency from performing surgery that is unrelated to the charges, such as spay or neuter surgery.

Animal abuse has a high profile throughout the country. As a result, animal rights activists often use accusations of cruelty as a campaign tactic against breeders, hunters, farmers, and others who raise or keep animals. False allegations of abuse or neglect also crop up in neighborhood feuds. We believe that it is imperative to protect animal owners from baseless allegations and radical campaigns by requiring a court order to seize animals and by regarding owners as innocent until they are found guilty in a court of law. Requiring the accused to pay for animal care before adjudication ignores this basic constitutional protection.

Those who work hard to help animals that are victims of cruelty or neglect are understandably frustrated by the lack of funds to do their jobs, especially when large numbers of animals must be seized. It is natural that they would seek to recoup these expenses from the owner who committed the crime. However, it is our position that no animal owner should be required to pay for impoundment of his animals until he is convicted. We would far rather consider humane agents and agencies as the law enforcement officers and departments they really are and fund them through local law enforcement budgets than force them to continue depending on donations from the public and payments ordered by the courts.

OVDO worked with lawmakers to write language protecting accused dog owners in the late 1990s and in the early years in this century. ORC 959.131 and ORC 959.132 are the result of that effort. We ask that the Senate Agriculture Committee honor that endeavor and remove language in HB 71 that would gut the safeguards currently embedded in ORC 959.132.

Sincerely,

Norma Bennett Woolf, president
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