

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1090

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S.P. 322

In Senate, March 5, 2019

### An Act To Update the Criminal Animal Welfare Laws

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Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator CARPENTER of Aroostook.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 17 MRSA §1021, sub-§3**, as amended by PL 2007, c. 702, §42, is further  
3 amended to read:

4 **3. Full hearing.** A full hearing must be held within 31 days of application for  
5 authorization under subsection 1. The court shall take notice that the evidence in a matter  
6 under this subsection is a living animal requiring proper care and nourishment and shall  
7 advance the matter on the docket and give the matter priority over other cases when the  
8 court determines that the interests of justice so require. In the event of a postponement of  
9 the original hearing date, the court shall reschedule the matter for full hearing no more  
10 than 14 days later than the original hearing date. It is the owner's responsibility at the  
11 hearing to show cause why the animal should not be seized permanently or disposed of  
12 humanely. If it appears at the hearing that the animal has been ~~eruelly~~ abandoned or  
13 cruelly treated by its owner or the animal is maimed, disabled, diseased, dehydrated,  
14 malnourished or injured, the court shall:

15 A. ~~Direct~~ Declare the animal forfeited and direct the applicant or other suitable  
16 person to take possession of and provide for the animal, or order its sale, adoption or  
17 placement;

18 B. Order the animal to be disposed of humanely if a veterinarian determines that,  
19 given reasonable time and care, the animal's recovery is doubtful or that the animal is  
20 diseased or disabled beyond recovery; or

21 C. If appropriate, allow the animal to be returned to its owner.

22 All veterinary records, seizure reports prepared by a humane agent, a state veterinarian or  
23 a person authorized to make arrests, police reports, witness statements and other written  
24 documents are admissible as evidence when the authors of these documents are available  
25 for cross-examination at a hearing. An oral statement of a witness included in a police  
26 report is admissible only if the witness is present. After hearing, the court shall issue a  
27 writ of possession, order the disposition of the animal or return the animal to its owner, in  
28 which case the animal must be returned within 30 days of the seizure.

29 **Sec. 2. 17 MRSA §1021, sub-§3-A** is enacted to read:

30 **3-A. Emergency euthanasia.** If an animal in possession of a humane agent, state  
31 veterinarian, sheriff, deputy sheriff, constable, police officer, animal control officer,  
32 person authorized to make arrests or the commissioner is in a condition that could cause  
33 the animal to suffer while in custody or if the animal is severely sick or severely injured  
34 and there is no possibility of recovery, the animal may be euthanized. The custodian of  
35 the animal shall submit in writing to the district attorney in the prosecutorial district  
36 where the animal is located a written report including a statement from a veterinarian  
37 stating the condition of the animal and how continued care could cause greater harm or  
38 damage to the animal. An animal euthanized under this subsection must receive a full  
39 necropsy to detail the condition of the animal and confirm the veterinarian's diagnosis.

40 **Sec. 3. 17 MRSA §1021, sub-§5, ¶A**, as corrected by RR 2013, c. 2, §30, is  
41 amended to read:

1 A. Whenever a humane agent, a state veterinarian or a person authorized to make  
2 arrests has reason to believe that an animal may be disabled, diseased, dehydrated or  
3 malnourished, the humane agent, state veterinarian or person shall apply to the  
4 District Court or Superior Court for authorization to take possession of the animal  
5 and turn it over to the applicant or other suitable person for examination and  
6 observation for a 30-day period. At the end of 30 days, the court must receive a  
7 report from the person in possession of the animal and either dissolve the possession  
8 order or set the matter for hearing within ~~30~~ 31 days under subsection 3.

9 **Sec. 4. 17 MRSA §1021, sub-§5-A**, as amended by PL 2011, c. 559, Pt. A, §16,  
10 is further amended to read:

11 **5-A. Seizure by humane agent, state veterinarian or person authorized to make**  
12 **arrests without court order.** A state humane agent ~~or a~~ state veterinarian or person  
13 authorized to make arrests who has reasonable cause to believe that a violation of section  
14 1031 or 1032 has taken place or is taking place may take possession of and retain the  
15 cruelly treated animal. Upon taking possession of an animal under this section, the  
16 humane agent or the state veterinarian shall present the owner with a notice that:

- 17 A. States the reason for seizure;
- 18 B. Gives the name, address and phone number of the humane agent ~~or~~ the state  
19 veterinarian or the person authorized to make arrests to contact for information  
20 regarding the animal; and
- 21 C. Advises the owner of the ensuing court procedure.

22 If the owner can not be found, the humane agent ~~or~~ the state veterinarian or the person  
23 authorized to make arrests shall send a copy of the notice to the owner at the owner's last  
24 known address by certified mail, return receipt requested. If the owner is not known or  
25 can not be located, the humane agent ~~or~~ the state veterinarian or the person authorized to  
26 make arrests shall contact the animal shelter or shelters used by the municipality in which  
27 the animal was found. The humane agent ~~or~~ the state veterinarian or the person  
28 authorized to make arrests shall provide the shelter with a description of the animal, the  
29 date of seizure and the name of a person to contact for more information.

30 Within 3 working days of possession of the animal, the humane agent ~~or~~ the state  
31 veterinarian or the person authorized to make arrests shall apply to the court for a  
32 possession order under subsection 3. ~~Upon~~ Notwithstanding the provisions of subsection  
33 3, upon good cause shown, the court shall expedite the case and schedule a prehearing  
34 conference to take place within 7 days of the seizure. The court shall set a hearing date,  
35 and the hearing may be advanced on the docket and receive priority over other cases  
36 when the court determines that the interests of justice so require. The humane agent ~~or~~ the state  
37 veterinarian or the person authorized to make arrests shall arrange care for the  
38 animal, including medical treatment, if necessary, pending the hearing.

39 The humane agent ~~or~~ the state veterinarian or the person authorized to make arrests shall  
40 notify the owner, if located, of the time and place of the hearing. If the owner has not  
41 been located, the court shall order a notice to be published at least once in a newspaper of  
42 general circulation in the county where the animal was found stating the case and  
43 circumstances and giving 48 hours notice of the hearing.

1 It is the owner's responsibility at the hearing to show cause why the animal should not be  
2 seized permanently or disposed of humanely. If it appears at the hearing that the animal  
3 has been abandoned or cruelly treated by its owner, the court shall declare the animal  
4 forfeited and order its sale, adoption or donation or order the animal to be disposed of  
5 humanely if a veterinarian determines that the animal is diseased or disabled beyond  
6 recovery. In the case of an expedited hearing, the court shall issue a writ of possession or  
7 return the animal to its owner within 30 days of the seizure.

8 For an expedited hearing, the State, prior to the prehearing conference, shall submit all  
9 veterinary records, reports by investigating officers and other relevant records in the  
10 State's possession to the court and shall mail or deliver copies of these same reports and  
11 records to the owner of the animal.

12 All veterinary records, seizure reports prepared by humane agents, police reports, witness  
13 statements or other written documents are admissible as evidence when the authors of  
14 these documents are available for cross-examination at a possession hearing. Oral  
15 statements of a witness included in a police report are only admissible if the witness is  
16 present at the possession hearing.

17 **Sec. 5. 17 MRSA §1021, sub-§5-B** is enacted to read:

18 **5-B. Temporary possession ban.** An owner or keeper of an animal that was  
19 lawfully seized or impounded pursuant to this section or section 1034 is prohibited from  
20 possessing or acquiring an animal prior to any hearing to determine possession of the  
21 animal that was lawfully seized or impounded. Notice of the prohibition under this  
22 subsection must be served to the owner or keeper subject to the prohibition. An owner or  
23 keeper who violates the prohibition under this subsection commits a civil violation for  
24 which a fine of not less than \$50 and not more than \$200 may be adjudged for each day  
25 of violation.

26 **Sec. 6. 17 MRSA §1022**, as amended by PL 1997, c. 690, §65, is further amended  
27 to read:

28 **§1022. Prevention of cruelty**

29 The commissioner, a humane agent, a state veterinarian or any person authorized to  
30 make arrests may lawfully interfere to prevent the perpetration of any act of cruelty upon  
31 an animal in that person's presence.

32 **Sec. 7. 17 MRSA §1027, sub-§1, ¶A**, as enacted by PL 2007, c. 439, §36, is  
33 amended to read:

34 A. "Authority" means the commissioner or a state veterinarian, humane agent,  
35 sheriff, deputy sheriff, constable, police officer, person authorized to make arrests or  
36 animal control officer that seizes or impounds an animal pursuant to section 1021.

37 **Sec. 8. 17 MRSA §1027, sub-§2**, as amended by PL 2011, c. 559, Pt. A, §17, is  
38 repealed.

39 **Sec. 9. 17 MRSA §1027, sub-§2-A** is enacted to read:



- 1           5. Clarifies that an owner or keeper subject to forfeiture of an animal may appeal to  
2 the Superior Court;
- 3           6. Adds to the definition of animal cruelty intentionally giving an animal a scheduled  
4 drug; and
- 5           7. Makes the violation of a sentencing provision for a conviction of animal cruelty a  
6 Class D crime.