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## ARIZONA ANIMAL CRUELTY LAWS

Cruelty to Animals: ARIZ. REV. STAT. ANN. § 13-2910

Bestiality: ARIZ. REV. STAT. ANN. § 13-1411

Animal Fighting: ARIZ. REV. STAT. ANN. § 13-2910.01 –

06 4. Livestock Provisions: ARIZ. REV. STAT. ANN. §13-2910.07 – 09; 3-1302; 3-1307; 3-1311; 31312; 28-912 & 3-2016

Animal Control Laws: ARIZ. REV. STAT. ANN. § 11-1013; 11-1014; 11-1014.01; 11-1024 & 11-1029.

Sentences: ARIZ. REV. STAT. ANN. § 13-702; 13-703; 13-707; 13-801 & 13-802

Seizure Provisions: ARIZ. REV. STAT. ANN. § 13-4281 & 3-1721

### **CRUELTY PROVISIONS**

#### **13-2910. Cruelty to animals; interference with working or service animal; classification; definitions**

**A.** A person commits cruelty to animals if the person does any of the following:

- 1.** Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment.
- 2.** Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control.
- 3.** Intentionally, knowingly or recklessly inflicts unnecessary physical injury to any animal.
- 4.** Recklessly subjects any animal to cruel mistreatment.
- 5.** Intentionally, knowingly or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of the owner.
- 6.** Recklessly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.
- 7.** Intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle and physical injury to or death of the animal is likely to result.
- 8.** Intentionally or knowingly subjects any animal under the person's custody or control to cruel neglect or abandonment that results in serious physical injury to the animal.

**9.** Intentionally or knowingly subjects any animal to cruel mistreatment.

**10.** Intentionally or knowingly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.

**11.** Intentionally or knowingly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.

**12.** Recklessly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.

**13.** Intentionally or knowingly obtains or exerts unauthorized control over a service animal with the intent to deprive the service animal handler of the service animal.

**B.** It is a defense to subsection A of this section if:

**1.** Any person exposes poison to be taken by a dog that has killed or wounded livestock or poison to be taken by predatory animals on premises owned, leased or controlled by the person for the purpose of protecting the person or the person's livestock or poultry, the treated property is kept posted by the person who authorized or performed the treatment until the poison has been removed and the poison is removed by the person exposing the poison after the threat to the person or the person's livestock or poultry has ceased to exist. The posting required shall provide adequate warning to persons who enter the property by the point or points of normal entry. The warning notice that is posted shall be readable at a distance of fifty feet, shall contain a poison statement and symbol and shall state the word "danger" or "warning".

**2.** Any person uses poisons in and immediately around buildings owned, leased or controlled by the person for the purpose of controlling wild and domestic rodents as otherwise allowed by the laws of the state, excluding any fur-bearing animals as defined in section 17-101.

**C.** This section does not prohibit or restrict:

**1.** The taking of wildlife or other activities permitted by or pursuant to title 17.

**2.** Activities permitted by or pursuant to title 3.

**3.** Activities regulated by the Arizona game and fish department or the Arizona department of agriculture.

**D.** A peace officer, animal control enforcement agent or animal control enforcement deputy may use reasonable force to open a vehicle to rescue an animal if the animal is left in the vehicle as prescribed in subsection A, paragraph 7 of this section.

**E.** A person who is convicted of a violation of subsection A, paragraph 6 or 10 of this section is liable as follows:

1. If the working or service animal was killed or disabled, to the owner or agency that owns the working or service animal and that employs the handler or to the owner or handler for the replacement and training costs of the working or service animal and for any veterinary bills.
2. To the owner or agency that owns a working or service animal for the salary of the handler for the period of time that the handler's services are lost to the owner or agency.
3. To the owner for the owner's contractual losses with the agency.

**F.** An incorporated city or town or a county may adopt an ordinance with misdemeanor provisions at least as stringent as the misdemeanor provisions of this section, except that any ordinance adopted shall not prohibit or restrict any activity involving a dog, whether the dog is restrained or not, if the activity is directly related to the business of shepherding or herding livestock and the activity is necessary for the safety of a human, the dog or livestock or is permitted by or pursuant to title 3.

**G.** A person who violates subsection A, paragraph 1, 2, 3, 4, 5, 6, 7 or 12 of this section is guilty of a class 1 misdemeanor. A person who violates subsection A, paragraph 8, 9, 10, 11 or 13 of this section is guilty of a class 6 felony.

**H.** For the purposes of this section:

1. "Animal" means a mammal, bird, reptile or amphibian.
2. "Cruel mistreatment" means to torture or otherwise inflict unnecessary serious physical injury on an animal or to kill an animal in a manner that causes protracted suffering to the animal.
3. "Cruel neglect" means to fail to provide an animal with necessary food, water or shelter.
4. "Handler" means a law enforcement officer or any other person who has successfully completed a course of training prescribed by the person's agency or the service animal owner and who used a specially trained animal under the direction of the person's agency or the service animal owner.
5. "Service animal" means an animal that has completed a formal training program, that assists its owner in one or more daily living tasks that are associated with a productive lifestyle and that is trained to not pose a danger to the health and safety of the general public.
6. "Working animal" means a horse or dog that is used by a law enforcement agency, that is specially trained for law enforcement work and that is under the control of a handler.

13-2910.07. Cruel and inhumane confinement of a pig during pregnancy or of a calf raised for veal

**A.** Notwithstanding any other provision of title 3 or title 13, a person shall not tether or confine any pig during pregnancy or any calf raised for veal, on a farm, for all or the majority of any day, in a manner that prevents such animal from:

1. Lying down and fully extending his or her limbs; or

2. Turning around freely.
- B.** This section shall not apply to:
1. Pigs or calves during transportation.
  2. Pigs or calves in rodeo exhibitions, state or county fair exhibitions, or other similar exhibitions.
  3. The killing of pigs or calves according to the provisions of chapter 13, title 3 and other applicable law and regulations.
  4. Pigs or calves involved in lawful scientific or agricultural research.
  5. Pigs or calves while undergoing an examination, test, treatment or operation for veterinary purposes.
  6. A pig during the seven day period prior to the pig's expected date of giving birth.
- C.** A person who violates this section is guilty of a class 1 misdemeanor.
- D.** The following definitions shall govern this section:
1. "Calf" means a calf of the bovine species.
  2. "Calf raised for veal" means a calf raised with the intent of selling, marketing or distributing the meat, organs or any part of such calf as a food product described as "veal."
  3. "Farm" means the land, buildings, support facilities, and other equipment that is wholly or partially used for the production of animals for food or fiber.
  4. "Pig" means any animal of the porcine species.
  5. "Turning around freely" means having the ability to turn around in a complete circle without any impediment, including a tether, or, in the case of an enclosure (including what is commonly described as a "gestation crate" for pigs and a "veal crate" for calves) without touching any side of the enclosure.

**13-1411. Bestiality; classification; definition**

- A.** A person commits bestiality by knowingly doing either of the following:
1. Engaging in oral sexual contact, sexual contact or sexual intercourse with an animal.
  2. Causing another person to engage in oral sexual contact, sexual contact or sexual intercourse with an animal.

**B.** In addition to any other penalty imposed for a violation of subsection A of this section, the court may order that the convicted person do any of the following:

1. Undergo a psychological assessment and participate in appropriate counseling at the convicted person's own expense.
2. Reimburse an animal shelter as defined in section 11-1022 for any reasonable costs incurred for the care and maintenance of any animal that was taken to the animal shelter as a result of conduct proscribed by subsection A of this section.

**C.** This section does not apply to:

1. Accepted veterinary medical practices performed by a licensed veterinarian or veterinary technician.
2. Insemination of animals by the same species, bred for commercial purposes.
3. Accepted animal husbandry practices that provide necessary care for animals bred for commercial purposes.

**D.** Bestiality is a class 6 felony, except that bestiality pursuant to subsection A, paragraph 2 of this section is a class 3 felony punishable pursuant to section 13-705 if the other person is a minor under fifteen years of age.

**E.** For the purposes of this section, "animal" means a nonhuman mammal, bird, reptile or amphibian, either dead or alive.

#### 13-2910.09. Equine tripping; classification; definitions

**A.** A person who knowingly or intentionally trips an equine for entertainment or sport is guilty of a class 1 misdemeanor.

**B.** A person who is convicted of a first violation of this section:

1. Shall be sentenced to serve not less than forty-eight consecutive hours in jail and is not eligible for probation or suspension of execution of sentence unless the entire sentence is served.
2. Shall pay a fine of not less than one thousand dollars.

**C.** A person who is convicted of a second violation of this section:

1. Shall be sentenced to serve not less than thirty consecutive days in jail and is not eligible for probation or suspension of execution of sentence unless the entire sentence is served.
2. Shall pay a fine of not less than two thousand dollars.

**D.** A person who is convicted of a third or subsequent violation of this section:

1. Shall be sentenced to serve not less than ninety consecutive days in jail and is not eligible for probation or suspension of execution of sentence unless the entire sentence is served.
2. Shall pay a fine of not less than two thousand dollars.

**E.** This section does not apply to any jumping or steeplechase events, racing, training, branding, show events, calf or steer roping events, bulldogging or steer wrestling events or any other traditional western rodeo events, including barrel racing, bareback or saddled bronc riding or other similar activities or events.

**F.** For the purposes of this section:

1. "Equine" means a horse, pony, mule, donkey or hinny.
2. "Trips" means knowingly or intentionally causing an equine to lose its balance or fall by use of a wire, pole, stick or rope or any other object or by any other means.

### **3-1301. Gathering cattle for tournament or contest without consent of owner; classification**

A person who knowingly gathers range cattle for the purpose of a tournament or contest for amusement or reward, or competition for prizes, or who engages in a steer-tying contest or exhibition of steer-tying, or who casts, ropes or throws a horse, cow or other kind of animal without the written consent of the owner, except in the necessary work done on the range or elsewhere in handling such animals, is guilty of a class 2 misdemeanor.

### **3-1312. Transporting equine in a cruel manner; violation; classification; definitions**

**A.** A person shall not transport or cause or allow to be transported to a slaughtering establishment any equine in or on any vehicle with more than one level or tier.

**B.** The animal cargo space of vehicles used for the transportation of equines to slaughtering establishments must:

1. Be designed, constructed and maintained in a manner that at all times protects the health and well-being of any equine being transported.
2. Segregate any aggressive equine from the other equines in or on the vehicle.
3. Have sufficient interior height to allow each equine to stand with its head extended to the fullest normal postural height.
4. Be equipped with doors and ramps of sufficient size to provide for safe loading and unloading of any equine.

**C.** Before the transportation of any equine to a slaughtering establishment, the owner or shipper must:

1. For a period of not less than six consecutive hours immediately before any equine is loaded on the vehicle, provide each equine appropriate food, potable water and the opportunity to rest.

2. Load each equine on the vehicle so that:

(a) Each equine has enough floor space to ensure that no equine is crowded in a way likely to cause injury or discomfort.

(b) Any aggressive equine cannot come into contact with any other equine in or on the vehicle.

**D.** During transit to the slaughtering establishment, the owner or shipper must:

1. Drive in a manner to avoid causing injury to the equines.

2. Observe the equines as frequently as circumstances allow, but not less than once every six hours, to check the physical condition of the equines and ensure that all requirements of this section are being followed. The owner or shipper must obtain veterinary assistance as soon as practical for any equine in obvious physical distress. Any equine that becomes nonambulatory during transit must be euthanized as soon as practical.

3. Offload from the vehicle any equine that has been in or on the vehicle for twenty-eight consecutive hours and provide the equine appropriate food, potable water and the opportunity to rest for at least five consecutive hours.

4. Transport all equines to a slaughtering establishment as expeditiously and carefully as possible in a manner that does not cause unnecessary discomfort, stress, physical harm or trauma. Electric prods shall not be used on equines for any purpose while transporting the equines to a slaughtering establishment, including while loading or unloading the vehicle, except when human safety is threatened.

**E.** Transporting one equine in violation of this section is a class 3 misdemeanor. A subsequent violation under this subsection is a class 2 misdemeanor.

**F.** Transporting two or more equine in violation of this section is a class 2 misdemeanor. A subsequent violation under this subsection is a class 1 misdemeanor.

**G.** For the purposes of this section:

1. "Slaughtering establishment" has the same meaning prescribed in section 3-2001.

2. "Vehicle" has the same meaning prescribed in section 28-101.

### **13-2910.01. Animal fighting; classification**

**A.** A person commits animal fighting by knowingly:

1. Owning, possessing, keeping or training any animal if the person knows or has reason to know that the animal will engage in an exhibition of fighting with another animal.
2. For amusement or gain, causing any animal to fight with another animal, or causing any animals to injure each other.
3. Permitting any act in violation of paragraph 1 or 2 to be done on any premises under the person's charge or control.

B. This section does not:

1. Prohibit or restrict activities permitted by or pursuant to title 3.
2. Apply to animals that are trained to protect livestock from predation and that engage in actions to protect livestock.

C. Animal fighting is a class 5 felony.

#### **13-2910.02. Presence at animal fight; classification**

Any person who is knowingly present at any place or building where preparations are being made for an exhibition of the fighting of animals, or who is present at such exhibition, is guilty of a class 6 felony.

#### **13-2910.03. Cockfighting; classification**

A. A person commits cockfighting by knowingly:

1. Owning, possessing, keeping or training any cock with the intent that such cock engage in an exhibition of fighting with another cock.
2. For amusement or gain, causing any cock to fight with another cock or causing any cocks to injure each other.
3. Permitting any act in violation of paragraph 1 or 2 to be done on any premises under his charge or control.

B. Cockfighting is a class 5 felony.

C. For purposes of this section and section 13-2910.04, cock means any male chicken, including game fowl except wildlife as defined in Arizona Revised Statutes section 17-101.

#### **13-2910.04. Presence at cockfight; classification**

Any person who is knowingly present at any place or building where preparations are being made for an exhibition of the fighting of cocks, or is present at such exhibition, is guilty of a class 1 misdemeanor.

#### **13-2910.05. Exempt activities**



Activity involving the possession, training, exhibition or use of an animal in the otherwise lawful pursuits of hunting, ranching, farming, rodeos, shows and security services shall be exempt from the provisions of sections 13-2910.01, 13-2910.02, 13-2910.03 and 13-2910.04.

### **13-2910.06. Defense to cruelty to animals and bird fighting**

It is a defense to sections 13-2910, 13-2910.01, 13-2910.02, 13-2910.03 and 13-2910.04 that the activity charged involves the possession, training, exhibition or use of a bird or animal in the otherwise lawful sports of falconry, animal hunting, rodeos, ranching or the training or use of hunting dogs.

## **PROCEDURE, DESTRUCTION, SEIZURE PROVISIONS**

### **11-1013. Establishment of county pounds; impounding and disposing of dogs and cats; reclaiming impounded dogs and cats; pound fees**

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- A.** The board of supervisors in each county may provide or authorize a county pound or pounds or enter into a cooperative agreement with a city, a veterinarian or an Arizona incorporated humane society for the establishment and operation of a county pound.
- B.** Any stray dog shall be impounded. All dogs and cats impounded shall be given proper care and maintenance.
- C.** Each stray dog or any cat impounded and not eligible for a sterilization program shall be kept and maintained at the county pound for a minimum of seventy-two hours or one hundred twenty hours for an animal that is impounded with a microchip or wearing a license or any other discernible form of owner identification, unless claimed or surrendered by its owner. Any person may purchase a dog or cat on expiration of the impoundment period, if the person pays all pound fees established by the county board of supervisors and complies with the licensing and vaccinating provisions of this article. If the dog or cat is to be used for medical research, a license or vaccination is not required. Any impounded cat that is eligible for a sterilization program and that will be returned to the vicinity where the cat was originally captured may be exempted from the mandatory holding period required by this subsection. For the purposes of this subsection, “eligible” means a cat that is living outdoors, lacks discernible identification, is of sound health and possesses its claws.
- D.** Any impounded licensed dog or any cat may be reclaimed by its owner or the owner’s agent provided that the person reclaiming the dog or cat furnishes proof of the person’s right to do so and pays all pound fees established by the board of supervisors. Any person purchasing a dog or cat shall pay all pound fees established by the board of supervisors.
- E.** If the dog or cat is not reclaimed within the impoundment period, the county enforcement agent shall take possession of and may place the dog or cat for sale or may dispose of the dog or cat in a humane manner. The county enforcement agent may destroy impounded sick or injured dogs or cats if destruction is necessary to prevent the dog or cat from suffering or to prevent the spread of disease.

### **11-1014. Biting animals; reporting; handling and destruction; exception**

- A.** An unvaccinated dog or cat that bites any person shall be confined and quarantined in a county pound or, on request of and at the expense of the owner, at a veterinary hospital for a period of not

less than ten days. The quarantine period shall start on the day of the bite incident. If the day of the bite is not known, the quarantine period shall start on the first day of impoundment. A dog properly vaccinated pursuant to this article that bites any person may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of and in a manner prescribed by the county enforcement agent.

**B.** A dog or cat that is impounded as the result of biting any person shall not be released from the pound to its owner unless one of the following applies:

1. The dog has a current dog license pursuant to section 11-1008 at the time the dog entered the pound.
2. The dog or cat has been previously spayed or neutered before impound or has been spayed or neutered and implanted with a microchip before release from the pound.
3. There is no veterinary facility capable of performing surgical sterilization within a twenty mile radius of the pound.
4. A veterinarian determines that a medical contraindication for surgery exists that reasonably requires postponement of the surgery until the surgery can be performed in a safe and humane manner.
5. The bite occurred in the premises of the owner and the victim is a member of the same household.
6. The owner pays a fifty dollar recovery fee, in addition to any fees or costs otherwise required pursuant to this article.

**C.** Any domestic animal, other than a dog, a cat or a caged or pet rodent or rabbit, that bites any person shall be confined and quarantined in a county pound or, on the request and at the expense of the owner, at a veterinary hospital for a period of not less than fourteen days. Livestock shall be confined and quarantined for the fourteen-day period in a manner regulated by the Arizona department of agriculture. Caged or pet rodents or rabbits shall not be quarantined or laboratory tested.

**D.** With the exception of a wild rodent or rabbit, any wild animal that bites any person or directly exposes any person to its saliva may be killed and submitted to the county enforcement agent or the agent's deputies for transport to an appropriate diagnostic laboratory. A wild rodent or rabbit may be submitted for laboratory testing if the animal has bitten a person and either the animal's health or behavior indicates that the animal may have rabies or the bite occurred in an area that contains a rabies epizootic, as determined by the department of health services.

**E.** If an animal bites any person, the incident shall be reported to the county enforcement agent immediately by any person having direct knowledge.

**F.** The county enforcement agent may destroy any animal confined and quarantined pursuant to this section before the termination of the minimum confinement period for laboratory examination for rabies if:

1. The animal shows clear clinical signs of rabies.
2. The animal's owner consents to its destruction.

**G.** Any animal subject to licensing under this article found without a tag identifying its owner shall be deemed unowned.

**H.** The county enforcement agent shall destroy a vicious animal by order of a justice of the peace or a city magistrate. A justice of the peace or city magistrate may issue an order to destroy a vicious animal after notice to the owner, if any, and the person who was bitten, and a hearing. The justice of the peace or city magistrate may impose additional procedures and processes to protect all parties in the interest of justice, and any decision by the justice of the peace or magistrate may be appealed to the superior court.

**I.** The owner of a vicious animal shall be responsible for any fees incurred by the enforcement agent for the impounding, sheltering and disposing of the vicious animal.

**J.** This section does not apply to a dog that is used by any federal, state, county, city or town law enforcement agency and that bites any person if the bite occurs while the dog is under proper law enforcement supervision and the care of a licensed veterinarian, except that the law enforcement agency shall notify the county enforcement agent if the dog exhibits any abnormal behavior and make the dog available for examination at any reasonable time.

**11-1014.01. Aggressive dogs; reasonable care requirements; violation; classification; definitions**

**A.** A person who owns or who is responsible for the care of an aggressive dog shall take reasonable care to:

1. Prohibit the dog from escaping to the outside of a residence or an enclosed area, yard or structure.
2. Control the dog in a manner that prevents the dog from biting or attacking a person or domestic animal at all times while the dog is off the owner's or responsible person's property.

**B.** This section does not apply to any of the following:

1. A dog that is owned by a governmental agency and that is being used in military or police work.
2. A service animal as defined in section 11-1024.
3. A dog that is involved in an otherwise lawful act of hunting, ranching, farming or other agricultural purpose.

**C.** A violation of subsection A, paragraph 2 of this section is a class 1 misdemeanor. A violation of subsection A, paragraph 1 of this section is a class 3 misdemeanor.

**D.** For the purposes of this section:

1. "Aggressive dog" means any dog that has bitten a person or domestic animal without provocation or that has a known history of attacking persons or domestic animals without provocation.
2. "Reasonable care" means the degree of care that a person of ordinary prudence would exercise in the same or similar circumstances.

**13-4281. Animal seizure; notification; forfeiture; bond; hearing; exceptions**

**A.** A peace officer, county enforcement agent or animal control officer who lawfully seizes an animal pursuant to section 13-2910 shall affix a notice of seizure in a conspicuous place where the animal was found or personally deliver the notice of seizure to the owner or keeper of the animal, if known or ascertainable after reasonable investigation. The officer or agent shall file proof of service with the court. If it is determined that the suffering of the animal does not require humane destruction, the notice shall include the following:

1. The name, business address and telephone number of the person providing the notice.
2. A description of the seized animal.
3. The authority and purpose for the seizure, including the time, place and circumstance under which the animal was seized.
4. A statement that in order to receive a postseizure hearing the owner or person authorized to keep the animal, or the owner or person's agent, shall request the hearing by signing and returning to the court an enclosed declaration of ownership or right to keep the animal within ten days, including weekends and holidays, after the date of the notice.
5. A statement that the owner is responsible for the cost of care for an animal that was properly seized and that the owner is required to post a bond in the amount of twenty-five dollars per animal with the court to defray the cost of care.
6. A warning that if the owner fails to post a bond within ten days after the seizure, the animal will be deemed abandoned and become the property of the seizing agency.

**B.** On receipt of a declaration of ownership and postseizure hearing request, the justice of the peace or city magistrate shall set a hearing date within fifteen business days. At the hearing, the seizing agency shall have the burden of establishing by a preponderance of evidence that the animal was subjected to cruel mistreatment, cruel neglect or abandonment in violation of section 13-2910 or will suffer needlessly if humane destruction is delayed. On this finding, the court may terminate the owner's rights in the animal and transfer the rights to the seizing agency or a designated animal care agency and shall forfeit the bond to pay the expenses incurred for the housing, care and treatment of the animal. If at the conclusion of the hearing the animal is not forfeited under this section, the court shall order the bond exonerated and returned to the owner.

**C.** If the owner or person authorized to keep the animal fails to post bond as prescribed by subsection A, paragraph 5 of this section, fails to request a hearing or fails to attend a scheduled hearing, the animal is deemed abandoned and all rights of the owner in the animal are transferred to the seizing agency.

**D.** This section does not apply to any of the following:

1. Activities permitted by or pursuant to title 3.
2. The seizure of an equine pursuant to section 3-1721.
3. A city, town or county that adopts or has adopted an ordinance or resolution providing for bonding and forfeiture of an animal that has suffered cruel mistreatment or cruel neglect if the ordinance or resolution imposes requirements that are equal or more stringent than this section.

**3-1721. Petition of seizure; notice of seizure; lien for expenses; forced sale; disposition of proceeds; nonliability of state; neglect or cruel treatment of equine; civil penalty; legal representation**

**A.** Any person or peace officer who believes that an equine is in poor physical condition because of neglect or cruel treatment may petition on affidavit a justice of the peace of the precinct or a city magistrate of the city in which the equine is found for an order authorizing the department to take possession of and provide care for the equine for a fifteen-day period. The order shall not be issued unless the affidavit provides that the livestock custody trust fund established by section 3-1377 has a balance that permits the department to provide such care or that the department can demonstrate that the expenses have been contracted for pursuant to subsection E of this section. The clerk of the court or justice of the peace, as the case may be, after filing and docketing the petition, shall enter a brief statement of the petition on the docket and set a time for a hearing that is not less than five and not more than fifteen days after the petition is filed. The order shall state the time and place of the hearing.

**B.** On receiving the order the department shall take possession of the equine. The department shall serve the order on the owner of the equine, if known, at least twenty-four hours before the hearing, either by personal service on the owner or by leaving a copy of the order with a person of suitable discretion at the owner's residence or place of business. If the owner is not known, the department shall give notice by posting a copy of the order on the day of the seizure in a conspicuous place at the location where the equine was seized and in at least two public places in the county where the equine was seized. The order shall be served by a livestock officer, constable or sheriff of the county.

**C.** If, at the hearing, it is determined that the equine at the time of taking possession was not in poor physical condition because of neglect or cruel treatment, the owner may immediately reclaim the equine and shall not be liable for payment of any expense incurred in the handling, feeding and care of the equine. Unless malice is proved, no action taken by an employee of the department or by a peace officer pursuant to this article shall be subject to civil or criminal liability.

**D.** On failure of the owner to be awarded immediate, expense-free possession of the equine pursuant to subsection C of this section, the department shall either sell the equine at public auction or, if the equine's condition makes its sale impractical, dispose of the equine in the most humane manner possible. The department shall deposit the proceeds of the sale in the livestock custody trust fund established by section 3-1377 for distribution in the following priority:

1. The department shall be reimbursed for auction, handling, feeding and caring expenses.

- 2.** Any monies derived from the sale in excess of the expenses to be paid pursuant to paragraph 1 shall be paid to the owner of the equine. After thirty days if the owner has not claimed the money, this money shall revert to the livestock custody trust fund established by section 3-1377.
- E.** The director may contract with any person or group to handle, feed and care for any equine taken into custody pursuant to this section. The state shall not be liable for injury or death of any person or equine or damage to property caused by the performance of the contract.
- F.** Notwithstanding any provision of this article to the contrary, the county attorney of the county in which the equine was seized, at any time prior to the expiration of fifteen days after the seizure of the equine, may take charge of and keep the equine at the expense of the county when the county attorney considers it to be of evidentiary value in any criminal prosecution relating to the condition of the equine.
- G.** In addition to violating section 13-2910, a person who subjects an equine to neglect or cruel treatment is subject to a civil penalty of not more than seven hundred fifty dollars for each violation. All civil penalties assessed pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.
- H.** The county attorney of the county, or the city attorney of the city, in which the livestock is seized may represent the livestock officer and the interests of this state in proceedings under this section.
- I.** On receipt the department shall deposit all monies, except civil penalties, collected pursuant to this section or received as a money donation from any public or private group, society, association or individual in the livestock custody trust fund established by section 3-1377. The monies in the fund shall be used to reimburse the department for expenses incurred in the handling, feeding, care and auctioning of equines seized pursuant to this section.