

AMENDMENTS TO LB 712

(Amendments to Standing Committee amendments, AM2288)

Introduced by Karpisek, 32.

1           1. Insert the following new sections:

2           Sec. 7. Section 28-1006, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           28-1006 (1) It shall be the duty of the sheriff, a police  
5 officer, or the Nebraska State Patrol to make prompt investigation  
6 of and arrest for any violation of section 28-1005.

7           (2) Any animal, equipment, device, or other property  
8 or things involved in any violation of section 28-1005 shall be  
9 subject to seizure, and disposition may be made in accordance  
10 with the method of disposition directed for contraband in ~~section~~  
11 sections 29-818 and 29-820.

12           (3) Any animal involved in any violation of section  
13 28-1005 shall be subject to seizure. Distribution or disposition  
14 ~~may shall be made~~ as provided in section 29-818 and in such manner  
15 as the court may direct. The court may give preference to adoption  
16 alternatives through humane societies or comparable institutions  
17 and to the protection of such animal's welfare. For a humane  
18 society or comparable institution to be considered as an adoption  
19 alternative under this subsection, it must first be licensed by  
20 the Department of Agriculture as having passed the inspection  
21 requirements in the Commercial Dog and Cat Operator Inspection  
22 Act and paid the fee for inspection under the act. The court may

1 prohibit an adopting or purchasing party from selling such animal  
2 for a period not to exceed one year.

3 (4) In addition to any other sentence given for a  
4 violation of section 28-1005, the sentencing court may order the  
5 defendant to reimburse a public or private agency for expenses  
6 incurred in conjunction with the care, impoundment, or disposal,  
7 including adoption, of an animal involved in the violation of  
8 such section. Whenever the court believes that such reimbursement  
9 may be a proper sentence or the prosecuting attorney requests,  
10 the court shall order that the presentence investigation report  
11 include documentation regarding the nature and amount of the  
12 expenses incurred. The court may order that reimbursement be made  
13 immediately, in specified installments, or within a specified  
14 period of time, not to exceed five years after the date of  
15 judgment.

16 Sec. 8. Section 28-1012, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 28-1012 (1) Any law enforcement officer who has reason  
19 to believe that an animal has been abandoned or is being cruelly  
20 neglected or cruelly mistreated may seek a warrant authorizing  
21 entry upon private property to inspect, care for, or impound the  
22 animal.

23 (2) Any law enforcement officer who has reason to believe  
24 that an animal has been abandoned or is being cruelly neglected or  
25 cruelly mistreated may issue a citation to the owner as prescribed  
26 in sections 29-422 to 29-429.

27 (3) Any animal, equipment, device, or other property or

1 things involved in a violation of section 28-1009 or 28-1010 shall  
2 be subject to seizure and distribution or disposition ~~may~~ shall  
3 be made under section 29-818 and in such manner as the court may  
4 direct.

5 (4) Any animal involved in a violation of section  
6 28-1009 or 28-1010 shall be subject to seizure. Distribution  
7 or disposition ~~may~~ shall be made under section 29-818 and in such  
8 manner as the court may direct. The court may consider adoption  
9 alternatives through humane societies or comparable institutions  
10 and the protection of such animal's welfare. For a humane  
11 society or comparable institution to be considered as an adoption  
12 alternative under this subsection, it must first be licensed by  
13 the Department of Agriculture as having passed the inspection  
14 requirements in the Commercial Dog and Cat Operator Inspection  
15 Act and paid the fee for inspection under the act. The court may  
16 prohibit an adopting or purchasing party from selling such animal  
17 for a period not to exceed one year.

18 (5) Any law enforcement officer acting under this section  
19 shall not be liable for damage to property if such damage is not  
20 the result of the officer's negligence.

21 Sec. 9. Section 28-1019, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 28-1019 (1) (a) If a person is convicted of a Class IV  
24 felony under section 28-1005 or 28-1009, the sentencing court shall  
25 order such person not to own, possess, or reside with any animal  
26 for at least five years after the date of conviction, but such time  
27 restriction shall not exceed fifteen years. Any person violating

1 such court order shall be guilty of a Class I misdemeanor.

2 (b) If a person is convicted of a Class I misdemeanor  
3 under subdivision (2)(a) of section 28-1009 or a Class III  
4 misdemeanor under section 28-1010, the sentencing court may order  
5 such person not to own, possess, or reside with any animal after  
6 the date of conviction, but such time restriction, if any, shall  
7 not exceed five years. Any person violating such court order shall  
8 be guilty of a Class IV misdemeanor.

9 (c) Any animal involved in a violation of a court order  
10 under subdivision (a) or (b) of this subsection shall be subject  
11 to seizure by law enforcement. Distribution or disposition shall be  
12 made under section 29-818.

13 (2) This section shall not apply to any person convicted  
14 under section 28-1005 or 28-1009 if a licensed physician confirms  
15 in writing that ownership or possession of or residence with an  
16 animal is essential to the health of such person.

17 Sec. 10. Section 29-818, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 29-818 ~~Property~~ (1) Except for pet animals or equines  
20 as provided in subsection (2) of this section, property seized  
21 under a search warrant or validly seized without a warrant shall  
22 be safely kept by the officer seizing the same unless otherwise  
23 directed by the judge or magistrate, and shall be so kept so long  
24 as necessary for the purpose of being produced as evidence on any  
25 trial. Property seized may not be taken from the officer having it  
26 in custody by replevin or other writ so long as it is or may be  
27 required as evidence in any trial, nor may it be so taken in any

1 event where a complaint has been filed in connection with which  
2 the property was or may be used as evidence, and the court in  
3 which such complaint was filed shall have exclusive jurisdiction  
4 for disposition of the property or funds and to determine rights  
5 therein, including questions respecting the title, possession,  
6 control, and disposition thereof.

7 (2) (a) Any pet animal or equine seized under a search  
8 warrant or validly seized without a warrant may be kept by the  
9 officer seizing the same on the property of the person who owns,  
10 keeps, harbors, maintains, or controls such pet animal or equine.

11 (b) When any pet animal or equine is seized or held the  
12 court shall provide the person who owns, keeps, harbors, maintains,  
13 or controls such pet animal or equine with notice that a hearing  
14 will be had and specify the date, time, and place of such hearing.  
15 Such notice shall be served by personal or residential service or  
16 by certified mail. If such notice cannot be served by such methods,  
17 service may be made by publication in the county where such pet  
18 animal or equine was seized. Such publication shall be made after  
19 application and order of the court. Unless otherwise determined and  
20 ordered by the court, the date of such hearing shall be no later  
21 than ten days after the seizure.

22 (c) At the hearing the court shall determine the  
23 disposition of the pet animal or equine and if the court determines  
24 that any pet animal or equine shall not be returned, the court  
25 shall order the person from whom the pet animal or equine was  
26 seized to pay all expenses for the support and maintenance of  
27 the pet animal or equine, including expenses for shelter, food,

1 veterinary care, and board, necessitated by the possession of the  
2 pet animal or equine. At the hearing, the court shall also consider  
3 the person's ability to pay for the expenses of the pet animal  
4 or equine and the amount of such payments. Payments shall be for  
5 a succeeding thirty-day period with the first payment due on or  
6 before the tenth day following the hearing. Payments for each  
7 subsequent succeeding thirty-day period, if any, shall be due on or  
8 before the tenth day of such period.

9 (d) If a person becomes delinquent in his or her payments  
10 for the expenses of the pet animal or equine, the court shall hold  
11 a hearing to determine the disposition of the seized pet animal or  
12 equine. Notice of such hearing shall be given to the person who  
13 owns, keeps, harbors, maintains, or controls such pet animal or  
14 equine and to any lienholder or security interest holder of record  
15 as provided in subdivision (b) of this subsection.

16 (e) An appeal may be entered within ten days after a  
17 hearing under subdivision (c) or (d) of this subsection. Any person  
18 filing an appeal shall post a bond sufficient to pay all costs of  
19 care of the pet animal or equine for thirty days. Such payment will  
20 be required for each succeeding thirty-day period until the appeal  
21 is final.

22 (f) Should the person be found not guilty, all funds paid  
23 for the expenses of the pet animal or equine shall be returned to  
24 the person.

25 (g) For purposes of this subsection:

26 (i) Pet animal means any domestic dog, domestic cat, mini  
27 pig, domestic rabbit, domestic ferret, domestic rodent, bird except

1 a bird raised as an agricultural animal and specifically excluding  
2 any bird possessed under a license issued by the State of Nebraska  
3 or the United States Fish and Wildlife Service, nonlethal aquarium  
4 fish, nonlethal invertebrate, amphibian, turtle, nonvenomous snake  
5 that will not grow to more than eight feet in length at maturity,  
6 or such other animal as may be specified and for which a permit  
7 shall be issued by an animal control authority after inspection and  
8 approval, except that any animal forbidden to be sold, owned, or  
9 possessed by federal or state law is not a pet animal; and

10 (ii) Equine means a horse, pony, donkey, mule, hinny, or  
11 llama.

12 (h) This section shall not preempt, and shall not be  
13 construed to preempt, any ordinance of a city of the metropolitan  
14 class.

15 2. Renumber the remaining sections and correct internal  
16 references accordingly.

17 3. Correct the operative date and repealer sections so  
18 that the sections added by this amendment become operative three  
19 calendar months after the adjournment of this legislative session.