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HOUSE BILL 444

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Joseph M Thompson

AN ACT

**RELATING TO ANIMALS; CREATING THE CRIME OF COMPANION ANIMAL
HOARDING; PROVIDING PENALTIES.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. A new section of the Criminal Code is enacted
to read:**

"[NEW MATERIAL] COMPANION ANIMAL HOARDING--PENALTIES.--

A. As used in Sections 1 through 5 of this act:

**(1) "companion animal" means an animal that
is commonly considered a pet or is considered by the owner to
be a pet. "Companion animal" includes canines, felines and
equines; and**

**(2) "pet" means a domesticated animal kept
for companionship rather than utility.**

B. Companion animal hoarding consists of a person:

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- 1 (1) possessing over fifteen companion
2 animals;
- 3 (2) failing to provide necessary nutrition to
4 the companion animals;
- 5 (3) failing to shelter the companion animals
6 in a sanitary environment;
- 7 (4) failing to provide necessary veterinary
8 care to the companion animals; and
- 9 (5) displaying a disregard for the conditions
10 under which the companion animals are living.

11 C. Whoever commits companion animal hoarding is
12 guilty of a misdemeanor and shall be sentenced pursuant to the
13 provisions of Section 31-19-1 NMSA 1978.

14 D. Upon a conviction for companion animal
15 hoarding, the court shall order an assessment of and any
16 necessary psychological counseling or treatment for the
17 convicted offender. The convicted offender shall bear the
18 expense of participating in the psychological counseling
19 ordered by the court.

20 E. Upon a conviction for companion animal
21 hoarding, the court may order that the offender is precluded
22 from owning, harboring or having custody or control of any
23 animals or from conspiring with others to maintain or create a
24 collection of animals on the offender's behalf for a period of
25 time that the court deems reasonable.

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1 F. The provisions of this section do not preclude
2 the provisions set forth in Chapter 77 NMSA 1978 from
3 applying. "

4 Section 2. A new section of the Criminal Code is enacted
5 to read:

6 "[NEW MATERIAL] SEIZURE OF COMPANION ANIMALS--NOTICE. --

7 A. A peace officer or an animal control officer
8 who reasonably believes that the life or health of companion
9 animals are endangered due to companion animal hoarding may
10 apply to the district court, magistrate court or the
11 metropolitan court in the county where the companion animals
12 are located for a warrant to seize the companion animals.

13 B. Except as provided in Subsection E of this
14 section, if the court finds probable cause that companion
15 animal hoarding is occurring, the court shall issue a warrant
16 for the seizure of the companion animals. The court shall
17 also schedule a hearing on the matter as expeditiously as
18 possible within thirty days unless good cause is demonstrated
19 by the state for a hearing at a later time.

20 C. Written notice regarding the time and location
21 of the hearing shall be provided to the owner charged with
22 companion animal hoarding. The court may order publication of
23 a notice of the hearing in a newspaper closest to the location
24 of the seizure.

25 D. If the owner of the companion animals cannot be

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1 determined, a written notice regarding the circumstances of
2 the seizure shall be conspicuously posted where the animals
3 are seized at the time the seizure occurs.

4 E. If a court finds probable cause that companion
5 animal hoarding is occurring, the court may order the owner
6 charged with companion animal hoarding to provide necessary
7 food, water, shelter and care for the companion animals that
8 are the basis of the charge until the charges against the
9 owner are adjudicated. The court may also order a peace
10 officer or an animal control officer to make regular visits to
11 the home of the owner charged with companion animal hoarding
12 to ascertain if the companion animals are receiving necessary
13 food, water, shelter and care until the charges against the
14 owner are adjudicated. At any time, a peace officer or an
15 animal control officer may apply for a warrant to seize the
16 companion animals pursuant to Subsection A of this section if
17 the peace officer or animal control officer feels that the
18 companion animals are not receiving the necessary
19 court-ordered food, water, shelter and care. "

20 Section 3. A new section of the Criminal Code is enacted
21 to read:

22 "[NEW MATERIAL] DISPOSITION OF SEIZED COMPANION
23 ANIMALS. --

24 A. If the court finds that the owner is not
25 committing companion animal hoarding, the court shall return

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1 the companion animals to their owner.

2 B. Upon conviction, the court shall place the
3 companion animals for adoption with an animal shelter or
4 animal welfare organization or provide for the humane
5 euthanasia of the companion animals.

6 C. In no event shall the owner be permitted to
7 adopt the seized companion animals following a conviction of
8 companion animal hoarding.

9 D. An individual who is authorized by the court to
10 care for companion animals, to treat companion animals or to
11 attempt to restore companion animals to good health is immune
12 from civil or criminal liability resulting from his actions. "

13 Section 4. A new section of the Criminal Code is enacted
14 to read:

15 "[NEW MATERIAL] FORFEITURE. -- Within fourteen days
16 following the seizure of companion animals from an owner who
17 is alleged to have committed companion animal hoarding, the
18 state may file a petition for forfeiture prior to trial before
19 the court having jurisdiction over the case. In the petition,
20 the state may request that permanent forfeiture of the
21 companion animals be granted if the owner of the companion
22 animals is alleged to have committed companion animal hoarding
23 and is also proven to have committed cruelty to animals or
24 extreme cruelty to animals as provided in Section 30-18-1 NMSA
25 1978. "

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1 Section 5. A new section of the Criminal Code is
2 enacted to read:

3 "[NEW MATERIAL] COSTS. --

4 A. Upon seizure of the companion animals, the
5 owner shall post a bond or other adequate financial assurance
6 acceptable to the court to cover the cost of boarding the
7 seized companion animals and all necessary veterinary
8 examinations and care provided to the seized companion animals
9 housed at an animal shelter or animal welfare organization
10 during the pendency of the proceedings.

11 B. In the absence of a conviction, the bond or
12 other adequate financial assurance acceptable to the court
13 shall be returned to the owner and the seizing agency shall
14 bear the costs of boarding the companion animals and all
15 necessary veterinary examinations and care of the companion
16 animals during the pendency of the proceedings.

17 C. Nothing in this section shall preclude an owner
18 charged with companion animal hoarding from voluntary,
19 permanent relinquishment of any companion animals to animal
20 control or an animal shelter in lieu of posting a bond or
21 other adequate financial assurance. Voluntary relinquishment
22 has no effect on any proceedings filed against a person
23 charged with companion animal hoarding. "

24 Section 6. EFFECTIVE DATE. -- The effective date of the
25 provisions of this act is July 1, 2002.

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