

**Senate File 302 - Introduced**

SENATE FILE 302

BY GUTH

**A BILL FOR**

1 An Act relating to animals subject to complaints alleging  
2 mistreatment, including by providing for the inspection of  
3 premises, the removal of animals, the care of animals in  
4 custody, and the disposition of animals by court order, and  
5 providing penalties.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 162.13, subsection 2, Code 2021, is  
2 amended to read as follows:

3 2. a. The failure of a person who owns or operates a  
4 commercial establishment to meet the standard of care required  
5 in section 162.10A, subsection 1, is a simple misdemeanor.

6 b. (1) The animals are subject to seizure and impoundment  
7 and may be sold or destroyed as provided by rules which shall  
8 be adopted by the department pursuant to chapter 17A. The  
9 rules shall provide for the destruction of an animal by a  
10 humane method, including by euthanasia.

11 (2) Notwithstanding subparagraph (1), if the department is  
12 investigating an allegation of animal mistreatment as provided  
13 in chapter 717B, the department shall inspect the commercial  
14 establishment, and provide for the animal's temporary  
15 disposition as provided in section 717B.11 or permanent  
16 disposition as provided in section 717B.12.

17 Sec. 2. Section 602.6405, subsection 1, Code 2021, is  
18 amended to read as follows:

19 1. a. Magistrates have jurisdiction of simple misdemeanors  
20 regardless of the amount of the fine, including traffic and  
21 ordinance violations, and preliminary hearings, search warrant  
22 proceedings, county and municipal infractions, and small  
23 claims.

24 b. Magistrates have jurisdiction to determine the  
25 disposition of livestock ~~or another animal~~, as provided  
26 in sections 717.2C, 717.2D, and 717.5 and ~~717B.4~~, if the  
27 magistrate determines the value of the livestock ~~or animal~~ is  
28 less than ten thousand dollars. Magistrates have jurisdiction  
29 to determine the disposition of certain animals other than  
30 livestock as provided in sections 717B.11 and 717B.12, if the  
31 magistrate determines the value of the animals is less than ten  
32 thousand dollars.

33 c. Magistrates have jurisdiction to exercise the powers  
34 specified in sections 556F.2 and 556F.12, and to hear  
35 complaints or preliminary informations, issue warrants, order

1 arrests, make commitments, and take bail. Magistrates have  
2 jurisdiction over violations of [section 123.49, subsection 2,](#)  
3 paragraph "h".

4 d. Magistrates who are admitted to the practice of law  
5 in this state have jurisdiction over all proceedings for the  
6 involuntary commitment, treatment, or hospitalization of  
7 individuals under [chapters 125](#) and [229](#), except as otherwise  
8 provided under [section 229.6A](#); ~~nonlawyer.~~ Nonlawyer  
9 magistrates have jurisdiction over emergency detention and  
10 hospitalization proceedings under [sections 125.91](#) and [229.22](#).  
11 Magistrates have jurisdiction to conduct hearings authorized  
12 under [section 809.4](#).

13 Sec. 3. Section 670.4, subsection 1, paragraph m, Code 2021,  
14 is amended by striking the paragraph.

15 Sec. 4. Section 717.1, Code 2021, is amended by adding the  
16 following new subsections:

17 NEW SUBSECTION. 2C. "*Enterprise*" means a person operating  
18 on a profit or nonprofit basis, that exercises care, custody,  
19 or control of livestock.

20 NEW SUBSECTION. 2D. "*Enterprise representative*" means a  
21 person authorized to act on behalf of the enterprise, including  
22 but not limited to a shareholder, member, officer, director, or  
23 employee of a corporation, or a member or manager of a limited  
24 liability company.

25 NEW SUBSECTION. 7A. "*Responsible party*" means a person who  
26 assumes liability for livestock as ordered by a court pursuant  
27 to sections 717.2C and 717.2D.

28 Sec. 5. Section 717.1, subsection 5, Code 2021, is amended  
29 by striking the subsection.

30 Sec. 6. NEW SECTION. 717.2B Investigations.

31 1. A law enforcement officer conducting an investigation of  
32 alleged livestock negligence shall not enter onto the premises  
33 where the livestock is maintained, unless all of the following  
34 apply:

35 a. A complaint alleging the livestock negligence has been

1 filed with the local authority. Prior to entry, the law  
2 enforcement officer shall provide a copy of the complaint,  
3 including any associated documents and the names and addresses  
4 of witnesses, to the owner of the livestock. However, if the  
5 livestock is controlled by an enterprise, the law enforcement  
6 officer shall provide a copy of the complaint to the enterprise  
7 representative.

8 *b.* Any of the following apply:

9 (1) The owner of the livestock holding title to the  
10 premises consents to the law enforcement officer's entry,  
11 or if the livestock is held by an enterprise, an enterprise  
12 representative consents to the entry.

13 (2) The law enforcement officer obtains a warrant issued by  
14 the district court in the same county where the premises are  
15 located. The search warrant and search shall comply with the  
16 requirements of chapter 808. The search warrant shall include  
17 the location of the premises and the name of the title holder  
18 of the premises; the names and titles of the persons conducting  
19 the search; and the time, date, and place of the search. The  
20 search warrant must be signed and dated by the magistrate  
21 issuing the search warrant. The warrant is void if any error  
22 in the search warrant is discovered. If the warrant is void,  
23 the law enforcement officer shall not enter onto or remain on  
24 the premises until a new search warrant is obtained or the  
25 owner of the livestock or enterprise representative consents  
26 to the entry.

27 2. A person, other than a veterinarian, shall not accompany  
28 a law enforcement officer onto the premises unless the owner of  
29 the premises consents to the entry.

30 3. During the law enforcement officer's investigation on  
31 the premises where the livestock is maintained, all of the  
32 following apply:

33 *a.* The owner of the livestock and any enterprise  
34 representative may accompany the law enforcement officer,  
35 unless the owner or enterprise representative interferes with

1 the investigation or threatens the law enforcement officer.  
2 Standing within close proximity of the law enforcement officer  
3 does not constitute interference or a threat, unless the act  
4 impedes the law enforcement officer's path.

5     *b.* A law enforcement officer shall not in any manner coerce  
6 or threaten the owner of the livestock or any enterprise  
7 representative. Any verbal statement or promise made by a law  
8 enforcement officer to the owner of the livestock or enterprise  
9 representative that relates to relinquishing livestock shall  
10 be deemed coercion.

11     *c.* The law enforcement officer shall provide the owner of  
12 the livestock and any enterprise representative a reasonable  
13 period to obtain video and audio equipment to record the  
14 investigation. The law enforcement officer shall not interfere  
15 with the process of recording the investigation. The owner of  
16 the livestock and any enterprise representative shall retain  
17 custody of and all rights to their recording. This paragraph  
18 does not prohibit a law enforcement officer from making  
19 an official recording of the investigation. The official  
20 recording shall be a confidential record subject to the same  
21 requirements as a peace officer's investigative report pursuant  
22 to section 22.7.

23     Sec. 7. NEW SECTION. 717.2C **Temporary dispositional**  
24 **proceedings.**

25     1. Based on an investigation of a complaint alleging  
26 livestock negligence as provided in section 717.2B, a court in  
27 the same county where the premises maintaining the livestock is  
28 located may order the temporary disposition of the livestock.

29     2. Prior to issuing the order, the law enforcement  
30 officer must provide the court with a statement signed by  
31 two veterinarians who visited the premises and examined the  
32 livestock.

33     *a.* The first veterinarian shall be designated by the law  
34 enforcement officer and the second veterinarian shall be  
35 designated by the owner of the livestock. If the livestock is

1 under the control of an enterprise, the second veterinarian  
2 shall be designated pursuant to written agreement entered  
3 into by the owner of the livestock and the enterprise  
4 representative. If necessary, the determination shall be  
5 made by a third veterinarian designated pursuant to a written  
6 agreement entered into by the law enforcement officer and the  
7 owner of the livestock or the enterprise representative as  
8 agreed to by the owner and enterprise representative.

9     *b.* The statement must be accompanied by all of the  
10 following:

11     (1) A video and audio recording of the examination and  
12 documentation that identifies the livestock by name; any  
13 identifying mark, microchip, tattoo, or ear tag; and the  
14 livestock's species, sex, height, and weight.

15     (2) The reasons for the temporary disposition including  
16 the specific reasons why removal is necessary, including any  
17 specific illness, disease, or injury that requires removal, and  
18 the treatment to be prescribed.

19     *c.* The statement shall be signed by each veterinarian making  
20 the determination and a copy of the signed statement shall  
21 be provided to the owner of the livestock. If the livestock  
22 is under the control of an enterprise, a copy of the signed  
23 statement shall be provided to an enterprise representative.

24     3. The court shall designate the owner of the livestock  
25 or enterprise representative as the responsible party in the  
26 matter of temporary disposition under this section or permanent  
27 disposition under section 717.2D.

28     4. *a.* As part of the temporary disposition, the court  
29 may require that a qualified person approved by the court  
30 make regular visits to the premises where the livestock is  
31 maintained to ensure that the livestock receives adequate care  
32 as required by the court.

33     *b.* Notwithstanding paragraph "*a*", the court may require the  
34 livestock's removal to an alternative premises, if the removal  
35 of the livestock is necessary to treat the livestock suffering

1 from a condition that if not treated would likely result in the  
2 livestock's death, and no veterinarian is available to provide  
3 such treatment on the premises.

4 *c.* A local authority or the department may contract with a  
5 livestock care provider for the maintenance of the livestock.  
6 The local authority or the department shall pay the livestock  
7 care provider for the livestock's maintenance regardless of  
8 proceeds received from the disposition of the livestock or any  
9 reimbursement ordered by a court pursuant to section 717.2D.

10 5. During the period of temporary disposition, the  
11 livestock shall not be subject to any veterinary procedure,  
12 unless any of the following apply:

13 *a.* The responsible party consents to the procedure. The  
14 consent shall be in the form of a statement signed and dated  
15 by the responsible party and notarized as provided in chapter  
16 9B. The responsible party shall receive a copy of the completed  
17 consent form. The responsible party may elect to have the  
18 medical procedure performed by a veterinarian designated by the  
19 responsible party.

20 *b.* A court order requires the procedure to be performed.

21 6. *a.* If the animal is maintained on the premises, the  
22 responsible party may provide for the care of the animal at any  
23 time.

24 *b.* If the livestock is removed to be maintained at an  
25 alternative premises under the control of a local authority,  
26 the responsible party may visit the premises during regular  
27 business hours. The responsible party may require that the  
28 livestock be examined by a veterinarian designated by the  
29 responsible party.

30 *c.* A veterinarian who participates in making a decision  
31 under this section shall not be involved in maintaining  
32 the livestock if the livestock is removed from the premises  
33 pursuant to court order as provided in this section.

34 *d.* The local authority shall provide for the return of the  
35 animal to the responsible party, if a veterinarian designated

1 by the enforcement agency determines that the livestock's  
2 removal is no longer required to prevent its death.

3     Sec. 8. NEW SECTION. 717.2D **Permanent dispositional**  
4 **proceedings.**

5     1. A court ordering the temporary disposition of livestock  
6 pursuant to section 717.2C shall determine if the livestock has  
7 been neglected.

8     *a.* The hearing to determine if the livestock has been  
9 neglected shall be a civil proceeding. If the case is related  
10 to a criminal proceeding, the disposition shall not be part of  
11 that proceeding and shall not be considered a criminal penalty  
12 imposed on a person found in violation of this chapter.

13     *b.* The hearing shall be conducted within ten days after  
14 the court's issuance of an order for temporary disposition.  
15 However, the responsible party shall be provided adequate time  
16 to obtain legal counsel prior to any court proceeding related  
17 to the livestock's temporary disposition. In making the  
18 determination, the court shall consider all circumstances in  
19 the case. The court may continue the hearing for up to thirty  
20 days upon motion by a party and for good cause. However, the  
21 court shall hold a hearing immediately if it is satisfied by  
22 clear and convincing evidence that the livestock is permanently  
23 distressed by disease or injury to a degree that would result  
24 in severe or prolonged suffering.

25     *c.* A statement made by the owner of the livestock or an  
26 enterprise representative to a law enforcement officer is  
27 inadmissible, unless the statement is made without coercion  
28 or inducement, and is recorded by the law enforcement officer  
29 using video and audio equipment as required in section 717.2B.

30     2. If a court determines that the livestock is not  
31 neglected, the court shall order that the livestock be  
32 immediately returned to the responsible party.

33     *a.* The court may order the responsible party to be awarded  
34 court costs and reasonable investigative fees, attorney fees,  
35 communication expenses, witness fees and expenses, and travel



1 expenses, which shall be taxed as part of the costs of the  
2 action.

3 *b.* A local authority or the department who is a party to  
4 the case, and a veterinarian who signs a statement providing  
5 for the removal of the livestock, as provided in section  
6 717.2C, shall be jointly and severally liable for any damages  
7 incurred by the owner and enterprise proximately caused by  
8 the livestock's removal and maintenance at the alternative  
9 premises.

10 *c.* If removed livestock is returned to the responsible  
11 party, each veterinarian who signed a statement to remove the  
12 livestock shall be subject to a fine of not less than one  
13 thousand dollars and not more than five thousand dollars. Each  
14 such livestock removed shall be considered a separate offense.  
15 The moneys from the fine shall be deposited in the general fund  
16 of the state.

17 *d.* If livestock is not returned to the responsible party  
18 within thirty days, and the owner of the livestock has not  
19 voluntarily relinquished the livestock, title to the livestock  
20 is deemed transferred to the local authority. In that case,  
21 the local authority shall reimburse persons who have legal  
22 interest in the livestock as provided in subsection 3.

23 3. *a.* If the court determines that livestock is neglected,  
24 the court shall order the local authority to permanently  
25 dispose of the neglected livestock by sale or in any other  
26 manner deemed appropriate for the welfare of the livestock.  
27 The hearing shall be conducted within thirty days after the  
28 determination, unless the court grants a continuance for good  
29 cause. If the livestock is sold, all of the following apply:

30 (1) Within ten business days before the hearing, the local  
31 authority shall deliver a written notice of the hearing to each  
32 person who is known to have a legal interest in the livestock.

33 (2) Within fourteen business days before the hearing, the  
34 local authority shall publish a notice of the hearing in a  
35 newspaper of general circulation in the county.

1     *b.* Any person having a legal interest in the livestock and  
2 appearing at the hearing shall be a party to the case and shall  
3 be provided with the opportunity to prove an interest in the  
4 livestock. Any proceeds received by the party from the sale of  
5 the livestock shall be subtracted from dispositional expenses  
6 incurred by the local authority in maintaining and disposing  
7 of the livestock.

8     *c.* This subsection shall not be construed to limit,  
9 restrict, impair, or subordinate the rights of a secured party  
10 or lender having a security interest in the livestock or  
11 proceeds from the sale of the livestock.

12     Sec. 9. Section 717.5, Code 2021, is amended to read as  
13 follows:

14     **717.5 Disposition of neglected livestock in immediate need**  
15 **of sustenance.**

16     1. *a.* A court shall order the disposition of livestock  
17 ~~neglected as provided in [section 717.2](#) or livestock in~~  
18 immediate need of sustenance and associated products as  
19 provided in sections [717.3](#) and [717.4](#) in accordance with this  
20 section.

21     ~~(1) A petition may be filed by a local authority or a person~~  
22 ~~owning or caring for the livestock pursuant to [section 717.2.](#)~~

23     ~~(2) *b.* A petition may be filed by the department. The~~  
24 court shall notify interested persons in the same manner  
25 as provided in [section 717.3](#). The petition may be filed  
26 separately or with a petition filed pursuant to [section 717.3.](#)

27     ~~*b.* *c.* The matter shall be heard by the court within ten~~  
28 days from the filing of the petition.

29     ~~(1) For livestock alleged to be neglected under section~~  
30 ~~717.2, the court may continue the hearing for up to forty~~  
31 ~~days upon petition by the person. However, the person shall~~  
32 ~~post a bond or other security with the local authority in an~~  
33 ~~amount determined by the court, which shall not be more than~~  
34 ~~the amount sufficient to provide for the maintenance of the~~  
35 ~~livestock for forty days. The court may grant a subsequent~~

1 ~~continuance by the person for the same length of time if the~~  
2 ~~person submits a new bond or security.~~

3 ~~(2) For livestock alleged to be in immediate need of~~  
4 ~~sustenance under [section 717.3](#), the The court may continue the~~  
5 ~~hearing for up to forty days upon petition by the department.~~  
6 ~~The department may file and the court may grant one or more~~  
7 ~~subsequent continuances each for up to forty days. The~~  
8 ~~department is not required to post a bond or other security.~~

9 ~~*e.* d. Notwithstanding paragraph "b", the court shall order~~  
10 ~~the immediate disposition of livestock if the livestock is~~  
11 ~~permanently distressed by disease or injury to a degree that~~  
12 ~~would result in severe or prolonged suffering.~~

13 ~~2. The hearing to determine if livestock has been neglected~~  
14 ~~under [section 717.2](#) for purposes of disposition shall be~~  
15 ~~a civil proceeding. If the case is related to a criminal~~  
16 ~~proceeding under [section 717.2](#), the disposition shall not be~~  
17 ~~part of that proceeding and shall not be considered a criminal~~  
18 ~~penalty imposed on a person found in violation of section~~  
19 ~~717.2.~~

20 ~~3. 2. A court may order a person owning the livestock~~  
21 ~~neglected under [section 717.2](#) or in immediate need of~~  
22 ~~sustenance under [section 717.3](#) to pay an amount associated with~~  
23 ~~expenses associated with the livestock as follows:~~

24 ~~*a.* (1) For livestock neglected under [section 717.2](#), the~~  
25 ~~amount shall not be more than for expenses incurred by the~~  
26 ~~local authority in maintaining and disposing of the neglected~~  
27 ~~livestock rescued pursuant to [section 717.2A](#), and reasonable~~  
28 ~~attorney fees and expenses related to the investigation of the~~  
29 ~~case. The remaining amount of a bond or other security posted~~  
30 ~~pursuant to [subsection 1](#) shall be used to reimburse the local~~  
31 ~~authority.~~

32 ~~(2) For livestock in immediate need of sustenance under~~  
33 ~~[section 717.3](#), the The amount shall not be more than for~~  
34 ~~expenses incurred by the department in providing sustenance to~~  
35 ~~and disposing of the neglected livestock as provided in section~~

1 ~~717.3 and this section.~~ The amount paid to the department  
2 shall be sufficient to allow the department to repay the  
3 livestock remediation fund as provided in [section 459.501](#). If  
4 ~~b.~~—If more than one person has a divisible ownership  
5 interest in the livestock, the amount required to be paid  
6 shall be prorated based on the percentage of interest in the  
7 livestock owned by each person. ~~The moneys shall be paid to~~  
8 ~~the local authority or department incurring the expense as~~  
9 ~~provided in paragraph "a".~~ The amount paid to the department  
10 shall be subtracted from proceeds owed to the owner or owners  
11 of the livestock, which are received from the sale of the  
12 livestock ordered by the court.

13 ~~c.~~ (1) ~~Moneys owed to the local authority from the sale of~~  
14 ~~neglected livestock that have been rescued by a local authority~~  
15 ~~pursuant to [section 717.2A](#) shall be paid to the local authority~~  
16 ~~before satisfying indebtedness secured by any security interest~~  
17 ~~in or lien on the livestock. Moneys owed to the department~~  
18 ~~from the sale of livestock in immediate need of sustenance and~~  
19 ~~associated products shall be paid to the department according~~  
20 ~~to its priority status as a lienholder as provided in section~~  
21 ~~717.4.~~

22 (2) ~~If an owner of the livestock is a landowner, the~~  
23 ~~local authority may submit an amount of the moneys owed to~~  
24 ~~the clerk of the county board of supervisors who shall report~~  
25 ~~the amount to the county treasurer. The amount shall equal~~  
26 ~~the balance remaining after the sale of the livestock. If~~  
27 ~~the livestock owner owns a percentage of the livestock, the~~  
28 ~~reported amount shall equal the remaining balance owed by all~~  
29 ~~landowners who own a percentage of the livestock. That amount~~  
30 ~~shall be prorated among the landowners based on the percentage~~  
31 ~~of interest in the livestock attributable to each landowner.~~  
32 ~~The amount shall be placed upon the tax books, and collected~~  
33 ~~with interest and penalties after due, in the same manner as~~  
34 ~~other unpaid property taxes. The county shall reimburse a city~~  
35 ~~within thirty days from the collection of the property taxes.~~

1 ~~4. Neglected livestock ordered to be destroyed shall be~~  
2 ~~destroyed only by a humane method, including euthanasia as~~  
3 ~~defined in [section 162.2](#).~~

4 Sec. 10. Section 717B.1, subsections 2, 8, and 11, Code  
5 2021, are amended by striking the subsections.

6 Sec. 11. Section 717B.1, Code 2021, is amended by adding the  
7 following new subsections:

8 NEW SUBSECTION. 8A. "*Enforcement agency*" means any of the  
9 following:

10 a. A local authority.

11 b. The department.

12 NEW SUBSECTION. 8B. "*Enforcement officer*" means a person  
13 regularly employed by an enforcement agency to conduct  
14 investigations in which a person may be subject to a criminal  
15 or civil proceeding.

16 NEW SUBSECTION. 8C. "*Enterprise*" means a person operating  
17 on a profit or nonprofit basis, that exercises care, custody,  
18 or control of an animal.

19 NEW SUBSECTION. 8D. "*Enterprise representative*" means a  
20 person authorized to act on behalf of the enterprise, including  
21 but not limited to a shareholder, member, officer, director, or  
22 employee of a corporation, or a member or manager of a limited  
23 liability company.

24 Sec. 12. Section 717B.1, subsection 14, Code 2021, is  
25 amended to read as follows:

26 14. "*Responsible party*" means a person who ~~owns or maintains~~  
27 assumes liability for an animal as ordered by a court pursuant  
28 to section 717B.11 or 717B.12.

29 Sec. 13. NEW SECTION. 717B.10 **Investigations.**

30 1. An enforcement officer conducting an investigation of  
31 alleged animal mistreatment of a threatened animal shall not  
32 enter onto the premises where the animal is maintained, unless  
33 all of the following apply:

34 a. A complaint alleging the animal mistreatment of a  
35 threatened animal has been filed with the enforcement agency

1 employing the enforcement officer. Prior to entry, the  
2 enforcement officer shall provide a copy of the complaint,  
3 including any associated documents and the names and addresses  
4 of witnesses, to the owner of the animal. However, if the  
5 animal is controlled by an enterprise, the enforcement officer  
6 shall provide a copy of the complaint to the enterprise  
7 representative.

8 *b.* Any of the following apply:

9 (1) The owner of the animal holding title to the premises  
10 consents to the enforcement officer's entry, or if the animal  
11 is held by an enterprise, an enterprise representative consents  
12 to the entry.

13 (2) The enforcement officer obtains a search warrant issued  
14 by the district court in the same county as where the premises  
15 are located. The search warrant and search shall comply with  
16 the requirements of chapter 808. The search warrant shall  
17 include the location of the premises and the name of the title  
18 holder of the premises; the names and titles of the persons  
19 conducting the search; and the time, date, and place of the  
20 search. The search warrant must be signed and dated by the  
21 magistrate issuing the search warrant. The warrant is void if  
22 any error in the search warrant is discovered. If the warrant  
23 is void, the enforcement officer shall not enter onto or remain  
24 on the premises until a new warrant is obtained or the owner or  
25 enterprise representative consents to the entry.

26 2. A person, other than a veterinarian, shall not accompany  
27 an enforcement officer onto the premises, unless the owner of  
28 the premises consents to the entry.

29 3. During the enforcement officer's investigation on the  
30 premises where the animal is maintained, all of the following  
31 apply:

32 *a.* The owner of the animal and any enterprise representative  
33 may accompany the enforcement officer, unless the owner or  
34 enterprise representative interferes with the investigation  
35 or threatens the enforcement officer. Standing within close

1 proximity of the enforcement officer does not constitute  
2 interference or a threat, unless the act impedes the  
3 enforcement officer's path.

4 *b.* An enforcement officer shall not in any manner coerce  
5 or threaten the owner of the animal or any enterprise  
6 representative. Any verbal statement or promise made by an  
7 enforcement officer to the owner of the animal or enterprise  
8 representative that relates to relinquishing the animal shall  
9 be deemed coercion.

10 *c.* The enforcement officer shall provide the owner of the  
11 animal and any enterprise representative a reasonable period to  
12 obtain video and audio equipment to record the investigation.  
13 The enforcement officer shall not interfere with the process  
14 of recording the investigation. The owner of the animal and  
15 any enterprise representative shall retain custody of and all  
16 rights to their recording. This paragraph does not prohibit  
17 an enforcement agency from making an official recording of the  
18 investigation. The official recording shall be a confidential  
19 record subject to the same requirements as a peace officer's  
20 investigative report pursuant to section 22.7.

21 Sec. 14. NEW SECTION. 717B.11 **Temporary dispositional**  
22 **proceedings.**

23 1. Based on an investigation of a complaint alleging animal  
24 mistreatment of a threatened animal as provided in section  
25 717B.10, a court sitting in the county where the premises  
26 maintaining the animal is located may order the temporary  
27 disposition of the animal.

28 2. Prior to issuing the order, the enforcement agency must  
29 provide the court with a statement signed by two veterinarians  
30 who visited the premises and examined the animal.

31 *a.* The first veterinarian shall be designated by the  
32 enforcement agency and the second veterinarian shall be  
33 designated by the owner of the animal. If the animal is under  
34 the control of an enterprise, the second veterinarian shall  
35 be designated pursuant to a written agreement entered into by

1 the owner of the animal and the enterprise representative.  
2 If necessary, the determination shall be made by a third  
3 veterinarian designated by written agreement pursuant to  
4 the enforcement agency and the owner of the animal or the  
5 enterprise representative as agreed to by the owner and  
6 enterprise representative.

7 *b.* The statement must be accompanied by all of the  
8 following:

9 (1) A video and audio recording of the examination  
10 and documentation that identifies the animal by name; any  
11 identifying mark, microchip, tattoo, or ear tag; and the  
12 animal's species, sex, height, and weight.

13 (2) The reasons for the temporary disposition including  
14 the specific reasons why removal is necessary, including any  
15 specific illness, disease, or injury that requires removal, and  
16 the treatment to be prescribed.

17 *c.* The statement shall be signed by each veterinarian making  
18 the determination and a copy of the signed statement shall be  
19 provided to the owner of the animal. If the animal is under the  
20 control of an enterprise, a copy of the signed statement shall  
21 be provided to an enterprise representative.

22 3. If necessary, the court shall designate the owner of the  
23 animal or enterprise representative as the responsible party  
24 in the matter of temporary disposition under this section or  
25 permanent disposition under section 717B.12.

26 4. *a.* As part of the temporary disposition, the court may  
27 require that a qualified person approved by the court make  
28 regular visits to the premises where the animal is maintained  
29 to ensure that the animal receives adequate care as required  
30 by the court.

31 *b.* Notwithstanding paragraph "*a*", the court may require the  
32 animal's removal to an alternative premises, if the removal  
33 of the animal is necessary to treat the animal suffering from  
34 a condition that if not treated would likely result in the  
35 animal's death, and no veterinarian is available to provide



1 such treatment on the premises.

2 *c.* A local authority or the department may contract with  
3 an animal care provider for the maintenance of the animal.  
4 The local authority or the department shall pay the animal  
5 care provider for the animal's maintenance regardless of  
6 proceeds received from the disposition of the animal or any  
7 reimbursement ordered by a court pursuant to section 717B.12.

8 5. During the period of temporary disposition, the animal  
9 shall not be subject to any veterinary procedure, unless any  
10 of the following apply:

11 *a.* The responsible party consents to the procedure. The  
12 consent shall be in the form of a statement signed and dated by  
13 the responsible party and notarized as provided in chapter 9B.  
14 The responsible party shall receive a copy of the completed  
15 consent form. The responsible party may elect to have the  
16 medical procedure performed by a veterinarian designated by the  
17 responsible party.

18 *b.* A court order requires the procedure to be performed.

19 6. *a.* If the animal is maintained on the premises, the  
20 responsible party may provide for the care of the animal at any  
21 time.

22 *b.* If the animal is removed to be maintained at an  
23 alternative premises under the control of a local authority  
24 or the department, the responsible party may visit the  
25 premises during regular business hours. The responsible party  
26 may require that the animal be examined by a veterinarian  
27 designated by the responsible party.

28 *c.* A veterinarian who participates in making a decision  
29 under this section shall not be involved in maintaining the  
30 animal if the animal is removed from the premises pursuant to  
31 court order as provided in this section.

32 *d.* The local authority or the department shall provide  
33 for the return of the animal to the responsible party, if  
34 a veterinarian designated by the local authority or the  
35 department determines that the livestock's removal is no longer

1 required to prevent its death.

2 Sec. 15. NEW SECTION. 717B.12 Permanent dispositional  
3 proceedings.

4 1. A court ordering the temporary disposition of an animal  
5 pursuant to section 717B.11 shall determine if the animal is a  
6 threatened animal.

7 a. The hearing to determine if the animal is a threatened  
8 animal shall be a civil proceeding. If the case is related to  
9 a criminal proceeding, the disposition shall not be part of  
10 that proceeding and shall not be considered a criminal penalty  
11 imposed on a person found in violation of this chapter.

12 b. The hearing shall be conducted within ten days after  
13 the court's issuance of an order for temporary disposition.  
14 However, the responsible party shall be provided adequate  
15 time to obtain legal counsel prior to any court proceeding  
16 related to the animal's temporary disposition. In making the  
17 determination, the court shall consider all circumstances in  
18 the case. The court may continue the hearing for up to thirty  
19 days upon motion by a party and for good cause. However, the  
20 court shall hold a hearing immediately if it is satisfied by  
21 clear and convincing evidence that the animal is permanently  
22 distressed by disease or injury to a degree that would result  
23 in severe or prolonged suffering.

24 c. A statement made by the owner of the animal or an  
25 enterprise representative to an enforcement officer is  
26 inadmissible, unless the statement is made without coercion or  
27 inducement, and is recorded by the enforcement officer using  
28 video and audio equipment as required in section 717B.10.

29 2. If a court determines that an animal is not a threatened  
30 animal, the court shall order that the animal be immediately  
31 returned to the responsible party.

32 a. The court may order the responsible party to be awarded  
33 court costs and reasonable investigative fees, attorney fees,  
34 communication expenses, witness fees and expenses, and travel  
35 expenses, which shall be taxed as part of the costs of the

1 action.

2 *b.* A local authority or the department who is a party to  
3 the case, and a veterinarian who signs a statement providing  
4 for the removal of the animal, as provided in section  
5 717B.11, shall be jointly and severally liable for any damages  
6 incurred by the owner and enterprise proximately caused by  
7 the livestock's removal and maintenance at the alternative  
8 premises.

9 *c.* If the removed animal is returned to the responsible  
10 party, each veterinarian who signed a statement to remove the  
11 animal shall be subject to a fine of not less than one thousand  
12 dollars and not more than five thousand dollars. Each such  
13 animal removed shall be considered a separate offense. The  
14 moneys from the fine shall be deposited in the general fund of  
15 the state.

16 *d.* If the animal is not returned to the responsible party  
17 within thirty days, and the owner of the animal has not  
18 voluntarily relinquished the animal, title to the animal is  
19 deemed transferred to the local authority or the department  
20 who is a party to the case. In that case, the local authority  
21 or the department shall reimburse any person who has a legal  
22 interest in the animal as provided in subsection 3.

23 3. *a.* If the court determines that the animal is  
24 threatened, the court shall order the local authority, or  
25 the department, as applicable, to permanently dispose of  
26 the threatened animal by sale or in any other manner deemed  
27 appropriate for the welfare of the livestock. The hearing  
28 shall be conducted within thirty days after the determination,  
29 unless the court grants a continuance for good cause. If the  
30 animal is sold, all of the following apply:

31 (1) Within ten business days before the hearing, the local  
32 authority or the department who is a party in the case shall  
33 deliver a written notice of the hearing to each person who is  
34 known to have a legal interest in the animal.

35 (2) Within fourteen business days before the hearing, the

1 local authority or the department who is a party to the case  
2 shall publish a notice of the hearing in a newspaper of general  
3 circulation in the county.

4 *b.* Any person having a legal interest in the animal and  
5 appearing at the hearing shall be a party to the case and shall  
6 be provided with the opportunity to prove an interest in the  
7 animal. Any proceeds received by the party from the sale of  
8 the animal shall be subtracted from dispositional expenses  
9 incurred by the department or local authority in maintaining  
10 and disposing of the animal.

11 *c.* This subsection shall not be construed to limit,  
12 restrict, impair, or subordinate the rights of a secured party  
13 or lender having a security interest in an animal or proceeds  
14 from the sale of the animal.

15 Sec. 16. Section 717D.5, Code 2021, is amended to read as  
16 follows:

17 **717D.5 Confiscation and disposition of animals.**

18 1. A local authority may confiscate an animal that is  
19 involved in a violation of [section 717D.2](#). An animal that is  
20 livestock shall be considered neglected and may be ~~rescued and~~  
21 disposed of as provided in ~~section 717.5~~ sections 717.2C and  
22 717.2D. An animal which is not livestock shall be considered  
23 threatened and rescued and disposed of as provided in ~~section~~  
24 ~~717B.4~~ sections 717B.11 and 717B.12.

25 2. If an animal that is involved in a violation of section  
26 717D.2 is not ~~rescued and~~ disposed of pursuant to ~~section~~  
27 ~~717.5~~ or ~~717B.4~~ as described in subsection 1, it shall be  
28 forfeited to the state and subject to disposition as ordered  
29 by the court. In addition, the court shall order the owner of  
30 the animal to pay an amount which shall not be more than the  
31 expenses incurred in maintaining or disposing of the animal.  
32 The court may also order that the person pay reasonable  
33 attorney fees and expenses related to the investigation of the  
34 case that shall be taxed as other court costs. If more than  
35 one person has a divisible interest in the animal, the amount

1 required to be paid shall be prorated based on the percentage  
2 of interest in the animal owned by each person. The moneys  
3 shall be paid to the local authority incurring the expense.  
4 The amount shall be subtracted from proceeds which are received  
5 from the sale of the animal ordered by the court.

6 Sec. 17. Section 717F.5, subsection 2, paragraph b, Code  
7 2021, is amended to read as follows:

8 *b.* If the court orders a permanent disposition of the  
9 dangerous wild animal, the dangerous wild animal shall be  
10 subject to disposition as provided in ~~section 717B.4~~ sections  
11 717B.11 and 717B.12, and the responsible party shall be  
12 assessed costs associated with its seizure, custody, and  
13 disposition as provided in ~~that section~~ those sections. The  
14 department may find long-term placement for the dangerous wild  
15 animal with a wildlife sanctuary or institution accredited or  
16 certified by the American zoo and aquarium association.

17 Sec. 18. REPEAL. Sections 717.2A, 717B.4, and 717B.5, Code  
18 2021, are repealed.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with  
21 the explanation's substance by the members of the general assembly.

22 GENERAL. This bill amends three related Code chapters  
23 providing for the care of animals that are confined (excluding  
24 wildlife in nature). Code chapter 162 provides for the  
25 administrative regulation of commercial establishments  
26 that breed, board, or sell animals other than livestock  
27 (Code section 162.1). Its provisions are administered and  
28 enforced by the department of agriculture and land stewardship  
29 (DALSS). Code chapters 717 and 717B are closely connected and  
30 principally provide enforcement of state criminal statutes  
31 prohibiting animal mistreatment such as abuse (Code sections  
32 717.1A and 717B.2) or neglect (Code sections 717.2 and  
33 717B.3). Each Code chapter authorizes the rescue, maintenance,  
34 and disposition of livestock or other animals under the  
35 jurisdiction of a court (Code sections 717.2A, 717.5, 717B.4,

1 and 717B.5). Both Code chapters are principally enforced by  
2 a local authority's law enforcement officer (a county sheriff  
3 or city police force). However, Code chapter 717 authorizes  
4 DALs to take action to protect livestock in immediate need of  
5 sustenance, also by petitioning a court (Code sections 717.3  
6 through 717.5).

7       COMMERCIAL ESTABLISHMENTS. A person authorized by DALs  
8 to operate a commercial establishment must provide an animal  
9 under its control with a minimum standard of care (Code section  
10 162.10A). DALs may seize and sell or destroy an animal that  
11 does not receive such care (Code section 162.13). The bill  
12 provides that if DALs is investigating a complaint alleging  
13 animal mistreatment, it must comply with new procedures for  
14 investigating, removing, and caring for the animal as provided  
15 in amendments to Code chapter 717B.

16       LIVESTOCK AND OTHER ANIMALS — ELIMINATION OF PROVISIONS.  
17 The bill eliminates provisions which (1) allow a law  
18 enforcement officer to rescue neglected livestock (Code section  
19 717.2A) and (2) authorize a local authority to petition a court  
20 to hold an expedited dispositional proceeding in which the  
21 court determines if the livestock is neglected, and whether to  
22 order the livestock's maintenance and disposition by sale or  
23 destruction (Code section 717.5). The bill eliminates similar  
24 provisions that allow a law enforcement officer to rescue other  
25 animals (Code section 717B.5) and authorizes a local authority  
26 to petition a court to hold an expedited dispositional  
27 proceeding (Code section 717B.4). The bill retains provisions  
28 that allow DALs to take action to provide for the immediate  
29 sustenance of livestock (Code sections 717.3 through 717.5).

30       INVESTIGATION. The bill provides that the owner or  
31 enterprise is entitled to receive a copy of a complaint  
32 alleging mistreatment. In the case of livestock, the  
33 mistreatment is in the form of neglect. In the case of other  
34 animals, the mistreatment is in the form of abuse, neglect,  
35 or torture. A warrant is required to enter onto the premises

1 where the livestock or other animal is kept. The owner or  
2 representative may be present during the entry and the owner or  
3 representative may make a recording of the investigation.

4 TEMPORARY DISPOSITIONAL PROCEEDINGS. The bill provides  
5 that a court must hold a proceeding to determine the temporary  
6 disposition of the livestock or other animal (new Code sections  
7 717.2C and 717B.11). In a case involving livestock, the  
8 petitioner is a local authority. In a case involving another  
9 animal, the petitioner may be a local authority or DALs. The  
10 court's determination must be based on a statement signed by  
11 two veterinarians who visited the premises and examined the  
12 livestock or other animal. The statement must be accompanied  
13 by a recording of the examination. The court may order the  
14 livestock or other animal to remain on the premises of the  
15 owner or representative or be removed to another location  
16 if necessary to preserve the life of the livestock or other  
17 animal. The livestock or other animal is prohibited from being  
18 subject to any veterinary procedure, unless by consent of the  
19 owner or representative or order by the court. The court must  
20 determine whether the owner or representative will stand as the  
21 responsible party in the controversy.

22 PERMANENT DISPOSITIONAL PROCEEDINGS. A court ordering the  
23 temporary disposition of livestock must determine if the animal  
24 is neglected (new Code section 717.2D) and a court ordering  
25 temporary disposition of another animal must determine whether  
26 it is threatened, meaning it has been neglected, abused,  
27 or tortured (new Code section 717B.11). In each case, if  
28 the court determines livestock is not neglected or another  
29 animal is not threatened, the animal must be returned to the  
30 responsible party. The court may order the responsible party  
31 to be awarded court costs and other reasonable fees associated  
32 with the case. A local authority or DALs who is a party to  
33 the case, and a veterinarian who signs a statement providing  
34 for the removal of the livestock, shall be jointly and  
35 severally liable for any damages incurred by the responsible

1 party proximately caused by the removal. In addition, each  
2 veterinarian who signed a statement to remove the livestock or  
3 animal is subject to a fine of not less than \$1,000 and not  
4 more than \$5,000 for each livestock or animal removed. If the  
5 livestock or other animal is not returned to the responsible  
6 party within 30 days, title to the livestock or other animal  
7 is transferred to the local authority or DALs who is a party  
8 to the case. In that case, the local authority or DALs  
9 must reimburse the persons who have a legal interest in the  
10 livestock or other animal.

11 The bill eliminates a provision that shields a county or  
12 city from liability for acts or omissions resulting from the  
13 enforcement of the Code chapters (Code section 670.4).