



AB-793/SB-580: Frequently Asked Questions



Why is this bill necessary? Do you intend to rewrite Chapter 173 completely?

When Chapter 173 was first enacted, lawmakers could not have envisioned the type of large-scale animal seizures with which Dane, Rock, Richland, and Adams Counties have all recently dealt. Over the course of the several months it took to resolve the legal issues, these cases incurred costs of hundreds of thousands of dollars to vet and board the dogs – putting huge strains on local shelters, circuit courts, district attorneys, and county administrations, as well as the taxpayers of the counties involved.

Attorneys for Dane County Humane Society (DCHS) and the Dane County Corporation Counsel Office, who wrote the bill, found that the existing law was fundamentally sound. In some instances, however, wording needed to be clarified, and some provisions needed to be changed to keep pace the new realities of enforcement.

AB-793 and companion bill SB-580 are necessary **updates** to Ch 173, and are all about "the people" – those who have to deal with long-term, large-scale animal seizures in abuse, neglect and animal fighting cases, and the taxpayers who have to help pay the costs – as well as what is best for the animals involved

Won't this bill make it easier to take an animal away from its owners?

NO! It simply helps expedite the process for disposition of the animal **after** it is seized because of neglect, abuse, or animal fighting. Unfortunately, such seizures already happen all too frequently in Wisconsin.

But I heard that the bill contains a new legal definition that will make it easier to seize animals.

The new definition contained in AB-793/SB-580 merely clarifies the phrase "reasonable grounds to believe." This term that is already used nine times in the current Chapter 173, but is not presently defined anywhere in state statutes.

The proposed definition is not a new one, but is taken from a consensus of prior court actions: "a set of facts and circumstances that in their entirety are sufficient to justify a reasonable person's belief."

To put this term in context, see 173.10 on page two of the existing WI Chapter 173: "A person may apply for a search warrant under s. 968.12 if there is *reason to believe* that a violation of ch. 951 has taken place or is taking place. If the court is satisfied that probable cause exists," a search warrant will be issued.

Search warrants are not issued frivolously or on a whim. There must be enough evidence to convince a judge that a violation is likely taking place.

Doesn't the bill eliminate the requirement for seized animals to be held in custody until the case is resolved?

Yes, but AB-793/SB-580 replaces the requirement with an improved provision that dog owners should support. The new provision allows the owner or the district attorney to petition the court to order that the animal be maintained in custody **only for a period determined by the court to be reasonable to allow the collection of evidence relating to the animal.**

An animal abuse or fighting case can take many months, if not years, to resolve. The Dane County pit bull case is a good example. In this instance, the animals had to be housed separately because of their trained aggressiveness and the staff was severely limited in what could be done to help them. DCHS could do no training, no surgery, no rehabilitation, and these dogs took all of their time and resources to the point that homeless animals in their area could not be served. The cost of care was over \$200,000 in ten months.


If the defendants had not surrendered custody in a civil court case pending the outcome of the state and federal charges, the animals would have been kept as evidence even longer and the cost even greater. And the dogs likely would have been "warehoused" for several more months.

 **OK, but what if the owner wants his animals back?**

AB-793/SB-580 includes a provision that allows an owner to file a petition with the court for return of the animal within seven days of the animal being seized. This "7 day" provision is the same as current law for unclaimed animals under §173.19.

It further requires that a hearing be held within 10 days of the petition, unless the owner asks for a delay. Should he do so, though, the owner would be required to post bond or other security or make payment to the court to cover the anticipated reasonable costs of custody, care, and treatment of the animal.

Furthermore, AB-793/SB-580 authorizes the release of an animal to its owner pending the outcome of another court proceeding, if the owner is not alleged to have mistreated the animal and if other specified conditions are met.

 **Does that mean that the owner would be required to pay up-front costs for the care of the confiscated animals?**

Under current law, a court can already order an owner to post a bond for the cost of care for an animal.

AB-793/SB-580 simply clarifies the rules enabling a court to require that an owner of an animal who is the subject of a Chapter 173 seizure or a Chapter 951 criminal case pay for the reasonable costs of custody and care for the animal, instead of the cost being borne entirely by the shelter or taxpayers.

 **Will confiscated animals still legally be regarded as "property?"**

Yes. However, regardless of how any of us feel about handling animals as property, we all agree that you cannot shelve or warehouse living creatures as you would a watch or a wallet or a car.

AB-793/SB-580 would ensure that seized animals would receive the special care and handling necessary to ensure their health, safety, and welfare.