

## **Arizona Revised Statutes Annotated**

**§ 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 upon 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 fund established by § 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.** Upon 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, pursuant to § 35-146 and 35- 147, the proceeds of the sale in the livestock custody fund established by § 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 fund established by § 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 may, at any time prior to the expiration of fifteen days after the seizure of the equine, 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 § 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 § § 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.** Upon receipt the department shall deposit, pursuant to § § 35-146 and 35-147, 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 fund established by § 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.

*CREDIT(S)*

*Added as § 24-551 by Laws 1975, Ch. 100, § 2, eff. May 22, 1975. Amended by Laws 1976, Ch. 162, § 46; Laws 1982, Ch. 135, § 48; Laws 1988, Ch. 165, § 66; Laws 1990, Ch. 76, § 8. Renumbered as § 3-1721 and amended by Laws 1990, Ch. 374, § § 226, 291, eff. Jan. 1, 1991. Amended by Laws 1992, Ch. 58, § 15; Laws 1996, Ch. 102, § 13; Laws 1996, Ch. 220, § 7; Laws 1997, Ch. 228, § 20; Laws 2000, Ch. 193, § 40; Laws 2004, Ch. 301, § 32.*

**§ 11-1029. Hearing on disposition of abused and vicious animals; forfeiture; exception**

**A.** A peace officer, county enforcement agent or peace officer who has responsibility for animal control in a municipality who has impounded an animal pursuant to § 11-1014 or 13-2910, on a showing of probable cause that the animal has been cruelly mistreated or cruelly neglected or that the animal is vicious or may be a danger to the safety of any person or other animal, may request a disposition hearing before a justice of the peace or city magistrate to determine whether the animal has suffered cruel mistreatment or cruel neglect as defined in § 13-2910 or is vicious. The hearing shall be set within fifteen business days after the request has been filed.

**B.** The officer or agent who has requested a hearing under subsection A of this section shall serve the order on the owner of the animal 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. Proof of service shall be filed with the court. If the owner fails to appear at the hearing or if the justice of the peace or city magistrate determines that the animal is being cruelly mistreated or cruelly neglected or determines the animal is vicious, the justice of the peace or city magistrate may order the animal forfeited to the officer or agent to be made available for adoption or for transfer to a legally incorporated humane society or approved rescue agency or humanely destroyed. The owner shall pay impound fees and any other costs for boarding or necessary veterinary care.

C. This section does not apply to the seizure of an equine pursuant to § 3-1721 or to a city, town or county that adopts or has adopted an ordinance or resolution providing for the forfeiture of an animal that has suffered cruel mistreatment or cruel neglect.

**§ 13-1208. Assault; vicious animals; classification; exception**

A. A person who owns a dog which the owner knows or has reason to know has a propensity to attack, to cause injury or otherwise endanger the safety of human beings without provocation or which has been found to be a vicious animal by a court of competent authority, which bites, inflicts physical injury on or attacks a human being while at large is guilty of a class 6 felony.

B. A person who owns a dog which the owner knows or has reason to know that the dog has a propensity to attack, to cause injury or otherwise endanger the safety of human beings without provocation or which has been found to be a vicious animal and who keeps the dog or vicious animal in an enclosed area or yard outside of a residence or structure on the property shall post a notice indicating the presence of the dog or vicious animal.

C. The provisions of this section shall not apply to dogs owned or used by a law enforcement agency and which are used in the performance of police work.

*CREDIT(S)*

*Added by Laws 1989, Ch. 100, § 1.*

**§ 13-1802. Theft; classification**

**A.** A person commits theft if, without lawful authority, the person knowingly:

1. Controls property of another with the intent to deprive the other person of such property; or
2. Converts for an unauthorized term or use services or property of another entrusted to the defendant or placed in the defendant's possession for a limited, authorized term or use; or
3. Obtains services or property of another by means of any material misrepresentation with intent to deprive the other person of such property or services; or
4. Comes into control of lost, mislaid or misdelivered property of another under circumstances providing means of inquiry as to the true owner and appropriates such property to the person's own or another's use without reasonable efforts to notify the true owner; or

5. Controls property of another knowing or having reason to know that the property was stolen; or

6. Obtains services known to the defendant to be available only for compensation without paying or an agreement to pay the compensation or diverts another's services to the person's own or another's benefit without authority to do so.

**B.** A person commits theft if the person knowingly takes control, title, use or management of an incapacitated or vulnerable adult's assets or property through intimidation or deception, as defined in § 46-456, while acting in a position of trust and confidence and with the intent to deprive the incapacitated or vulnerable adult of the asset or property.

**C.** The inferences set forth in § 13-2305 apply to any prosecution under subsection A, paragraph 5 of this section.

**D.** At the conclusion of any grand jury proceeding, hearing or trial, the court shall preserve any trade secret that is admitted in evidence or any portion of a transcript that contains information relating to the trade secret pursuant to § 44-405.

**E.** Theft of property or services with a value of twenty-five thousand dollars or more is a class 2 felony. Theft of property or services with a value of three thousand dollars or more but less than twenty-five thousand dollars is a class 3 felony. Theft of property or

services with a value of two thousand dollars or more but less than three thousand dollars is a class 4 felony. Theft of property or services with a value of one thousand dollars or more but less than two thousand dollars is a class 5 felony. Theft of property or services with a value of two hundred fifty dollars or more but less than one thousand dollars is a class 6 felony. Theft of any property or services valued at less than two hundred fifty dollars is a class 1 misdemeanor, unless such property is taken from the person of another or is a firearm or is a dog taken for the purpose of dog fighting in violation of § 13-2910.01, in which case the theft is a class 6 felony.

**F.** A person who is convicted of a violation of subsection A, paragraph 1 or 3 of this section that involved property with a value of one hundred thousand dollars or more is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except pursuant to § 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to § 41-1604.07 or the sentence is commuted.

*CREDIT(S)*

*Added by Laws 1977, Ch. 142, § 72, eff. Oct. 1, 1978. Amended by Laws 1978, Ch. 201, § 143, eff. Oct. 1, 1978; Laws 1982, Ch. 44, § 1; Laws 1989, Ch. 170, § 3; Laws 1993, Ch. 255, § 31, eff. Jan. 1, 1994; Laws 1998, Ch. 119, § 1; Laws 1998, Ch. 161, § 1; Laws 2000, Ch. 189, § 4; Laws 2004, Ch. 181, § 1.*

*APPLICATION*

*<Laws 1993, Ch. 255, § 99, as amended by Laws 1994, Ch. 236, § 17, effective July 17, 1994, retroactively effective to January 1, 1994, provides:>*

*<"Sec. 99. Applicability">*

*<"The provisions of § 1 through 86 and § 89 through 95 of this act apply only to persons who commit a felony offense after the effective date of this act.">*

**§ 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, and 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 § 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.

**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 upon 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.

*CREDIT(S)*

*Added by Laws 1977, Ch. 142, § 91, eff. Oct. 1, 1978. Amended by Laws 1996, Ch. 89, § 1; Laws 1999, Ch. 143, § 2; Laws 2000, Ch. 32, § 5; Laws 2002, Ch. 302, § 1.*

### **§ 13-2910.01. Dog fighting; classification**

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

1. Owning, possessing, keeping or training any dog with the intent that such dog engage in an exhibition of fighting with another dog.
2. For amusement or gain, causing any dog to fight with another dog, or causing any dogs 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.** Dog fighting is a class 5 felony.

*CREDIT(S)*

*Added by Laws 1979, Ch. 119, § 1. Amended by Laws 1986, Ch. 42, § 1.*

*HISTORICAL AND STATUTORY NOTES*

*The 1986 amendment substituted "dog" or "dogs" for "animal" or "animals" throughout the section; and raised the offense classification made in subsec. B from a class 6 felony to a class 5 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 § 13-2910.04, cock means any male chicken, including game fowl except wildlife as defined in A.R.S. § 17-101.

*CREDIT(S)*

*Added by Proposition 201, § 1, approved election Nov. 3, 1998, eff. Nov. 23, 1998.*

*HISTORICAL AND STATUTORY NOTES*

*Proposition 201, based on an initiative measure, proposing an amendment to Arizona Revised Statutes by additions of § § 13-2910.03 and 13-2910.04 and the amendment and renumbering of existing § § 13-2910.03 and 13-2910.04 as 13- 2910.05 and 13-2910.06, which related to classification of crime of cockfighting, was approved by the electors at the November 3, 1998 general election as proclaimed by the governor on November 23, 1998.*

*Former § 13-2910.03 was renumbered as § 13-2910.05.*

**§ 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.

*CREDIT(S)*

*Added by Proposition 201, § 1, approved election Nov. 3, 1998, eff. Nov. 23, 1998.*

*HISTORICAL AND STATUTORY NOTES*

*Proposition 201, based on an initiative measure, proposing an amendment to Arizona Revised Statutes by additions of § 13-2910.03 and 13-2910.04 and the amendment and renumbering of existing § 13-2910.03 and 13-2910.04 as 13-2910.05 and 13-2910.06, which related to classification of crime of cockfighting, was approved by the electors at the November 3, 1998 general election as proclaimed by the governor on November 23, 1998.*

*Former § 13-2910.04 was renumbered as § 13-2910.06.*