SYNOPSIS HB 2111

- Effectively eliminates disposition process for abused and neglected animals.
- Animals cannot be housed in an evidence locker and stored away until trial – "disposition process" was established to remedy this problem.
- Disposition process is an expeditious civil trial to determine if, in fact, animals have been abused/neglected, and if so, the Court can order that the animals be permanently removed from the harmful situation.
- Basically, there are two trials, the civil trial to determine if animals should be removed from the abuser/neglecter, and the criminal trial, to determine possible criminal penalties.
- Without a disposition trial, municipalities could not afford to hold abused and neglected animals for long periods of time, especially in cases of a large hoarding situation or a herd of starving horses. Too often, in the past, the animals were left in the hands of their abusers.

MYTHS VERSUS FACTS – HB 2111

578.018 DISPOSITION OF ABUSED/NEGLECTED ANIMALS

The sponsor of HB 2111 has presented the following arguments in support of her legislation which reverses current law and would effectively eliminate the disposition process for abused and neglected animals.

Myth: HB 2111 would no longer require that a person post a bond when their animals are seized by the authorities in order to prevent the animals from being permanently confiscated by the state.

Fact: The state currently has no authority to take permanent possession of the animals until there is a disposition Ruling. The bond provision is only applicable if the defendant loses the disposition hearing and wishes to appeal the ruling of the court. In those instances only, the defendant would need to post a bond to ensure the cost of care during the appeal process. Current law (578.018 2.) clearly states "may prevent disposition of the animal by posting bond." There can be no disposition of the animal until there is a disposition hearing.

Myth: HB 2111 would prevent the authorities from sterilizing or euthanizing animals as soon as they are seized.

Fact: The state currently has no authority to sterilize animals as the animals remain the property of the defendant until there is a ruling in the disposition process. Similarly, the state has no authority to euthanize an animal until after a disposition ruling excluding exceptional cases to prevent unnecessary suffering.

Myth: HB 2111 protects property rights. The current process violates property rights – this is a property rights issue.

Fact: The disposition hearing is a civil trial whereby the state must prove by a preponderance of the evidence that the animals have, in fact, been abused and/or neglected. The animal owner can appeal all the way up to the Supreme Court. The disposition of animals under 578.018 is no different than how all property disputes are settled – in civil court.

Myth: The current law is unfair and does not provide due process.

Fact: The current law provides due process. The Missouri Supreme Court, in a **unanimous decision**, ruled that 578.018 is constitutional: *What the statute does is grant the circuit court the discretion necessary to evaluate the innumerable scenarios under which an animal abuse case or neglect case may arise. Section 578.018 provides the circuit courts with sufficient guidance to avoid arbitrary and*

discriminatory application and is not void on that basis. (State ex rel 128 Zobel v. Burrell, 167 S.W.3d 688)

Myth: A person could be found not responsible for abusing or neglecting their animals and still lose their animals.

Fact: There must be a finding in a court of law that a person is responsible for abusing or neglecting the animals before there can be a permanent disposition of the animals. The Missouri Court of Appeals is clear on this issue: *The statutory predicate for such strong action [permanent disposition of the animals] is a finding of abuse or neglect.* (In Re 8 Horses, 22 Dogs, 297S.W.3d 125)

Myth: A person could be found not responsible for abusing or neglecting their animals and still be liable for costs.

Fact: If the Disposition Ruling stipulates that the animals in question were unlawfully impounded, the owner is not liable for cost of care.

Myth: HB 2111 allows animals to be returned as soon as possible if the owner is not responsible for abuse or neglect.

Fact: HB 2111 effectively eliminates the disposition process and therefore any owner who had his/her animals seized without cause would have to wait until the criminal trial to have an opportunity to reclaim the animals in question. This could take up to a year as compared to a disposition trial which by current law must be conducted within 30 days of the seizure. **HB 2111 has the direct opposite result that the sponsor is hoping to achieve with this legislation.**

To be clear, HB 2111 renders disposition hearings meaningless. HB 2111 takes away the authority of the judge at the civil disposition hearing and gives it to the judge at the criminal trial. Section 6 of HB 2111 states, "If the owner posted a sufficient bond and is **acquitted** or there is a final discharge **without conviction**" … the owner may demand the return of the animal held in custody." You can only be "acquitted" or "convicted" at a criminal trial. Section 6 therefore eviscerates the court's authority at the disposition hearing and would mandate that there be no final disposition of the animals until months later at the criminal trial. As a result, the state would be forced to maintain custody of the animals until the criminal trial if the local municipality could afford to do so as HB 2111 stipulates that there is to be no final disposition of the animals until months later at the criminal trial.

Myth: 578.018 is unfair as a person could be acquitted at their criminal trial and still have lost their animals at the disposition trial.

Fact: While it is theoretically possible that a person could be found responsible for abusing/neglecting their animals during the civil trial (disposition hearing) and later be acquitted during the criminal trial, we are not aware of any such instance. Even if such a case occurred, it would not mean that the animals were receiving adequate care under the law. Our legal system holds to a higher standard the evidence needed to incarcerate someone as compared to taking away his/her property. The O J Simpson case is a perfect example.

While Simpson was acquitted at his criminal trial, he was still found responsible in a civil trial and ordered to pay restitution to the victims' families.