

ASSEMBLY AGRICULTURE AND FOOD SECURITY COMMITTEE

STATEMENT TO ASSEMBLY, No. 2354

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 23, 2023

The Assembly Agriculture and Food Security Committee reports favorably and with committee amendments Assembly Bill No. 2354.

As amended by the committee, this bill would: (1) authorize certain law enforcement officials to take custody of animals in cases of suspected animal cruelty violations; and (2) establish various provisions related to the cost of care of animals taken into custody. The bill would also amend the existing law at P.L.2017, c.189 to modify the notice requirements that are applicable whenever a dog, domestic companion animal, or service animal is taken into custody pursuant to P.L.2017, c.189; and to additionally clarify that a licensed shelter, pound, or kennel operating as a shelter or pound, upon retaining custody of an animal seized pursuant to P.L.2017, c.189, will be authorized to provide care to improve the animal's physical or psychological well-being.

Under the amended bill's provisions, a court would be authorized to issue a warrant allowing a humane law enforcement officer or other State or local law enforcement officer to enter onto the private property where an animal is located, and to take custody of the animal, upon a showing of probable cause that there has been an animal cruelty violation. In cases where an officer has a reasonable basis to believe that immediate assistance is required to protect the animal from harm resulting from an animal cruelty violation, the officer would be authorized to enter onto private property and take custody of the animal without a warrant.

The bill would require animals taken into custody in the manner described above to be placed in the care of a licensed shelter, pound, or kennel operating as a shelter or pound. Any such facility having custody of an animal will be authorized to provide care to improve the animal's physical or psychological well-being or to transfer the animal to an animal rescue organization facility or a foster home, whenever it determines that such placement or care is in the animal's best interests. Euthanasia would only be permitted, under the bill, when a licensed veterinarian makes a written determination that the animal is in

intractable and extreme pain and is beyond any reasonable hope of recovery.

The bill would authorize an animal care agency (as defined by the bill) that receives and cares for an animal taken into custody in the manner described above to file a complaint in the Superior Court seeking the reasonable costs of care for the animal. If an animal care agency demonstrates, by a preponderance of evidence, that an animal was taken into custody for the animal's protection from harm, the court would be authorized to award damages to cover the reasonable costs of care for the animal for the period of time that the animal is held in the custody of the animal care agency. If the animal care agency fails to satisfy this evidentiary standard, no damages would be awarded, but the animal would be retained by the animal care agency until the outcome of the animal cruelty proceeding that led to the animal's seizure. If the court determines that an agency's complaint was not filed correctly, the agency is to retain the animal in custody, but may seek a 30-day extension to refile the complaint.

The bill establishes various requirements concerning the way in which damages for the reasonable costs of care for an animal are to be paid. If a person fails to make a payment as required by the bill, ownership of the animal would transfer to the animal care agency.

The bill would provide that, if a person is liable for, and has fully and timely paid, the reasonable costs of an animal's care under the bill and is found not guilty of the alleged criminal animal cruelty violation that led to the animal's seizure, such person would be authorized to immediately repossess the animal and would additionally be entitled to reimbursement, from the animal care agency, for all of the reasonable costs of care paid thereto.

Finally, the bill would authorize a court, upon its own initiative or upon petition by an animal care agency or enforcement agency (as defined by the bill), to order an animal involved in an animal cruelty proceeding to be forfeited, upon conviction, to the animal care or enforcement agency. The court would additionally be authorized to prohibit the convicted person from owning, harboring, residing with, or having custody or control of any other animals for a period of time that the court deems appropriate.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) delete all provisions of the bill related to the tethering and proper confinement of dogs and other animals;

(2) delete the provisions of the bill that would have amended P.L.2017, c.189 (C.4:22-17-7) to authorize a court to issue a warrant for the seizure of a dog, domestic companion animal, or service animal upon the submission thereto of proof that a written correction warning has been issued to the violator; and reinsert the provisions of existing law that authorize the issuance of a warrant for the seizure of such an

animal only upon the submission of proof that a formal summons has been issued to the violator, except in those cases where an officer has a reasonable basis to believe that immediate assistance is required to protect the animal's life, or to prevent injury to the animal, due to a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.);

(3) delete the provisions of the bill that would have required a correction warning, issued for a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.), to be issued in writing;

(4) clarify that the costs of elective surgical procedures are excluded from the "reasonable costs of care" that are required to be financed and reimbursed under the bill's provisions;

(5) provide for the same notice to be issued whenever an animal is taken into custody pursuant to P.L.2017, c.189 (C.4:22-17.1 et seq.) or pursuant to the bill's new provisions, and clarify that such notice is not required to include information about potential euthanasia of the animal;

(6) require an animal care agency, upon petitioning a court for the reasonable costs of care expended thereby in association with the provision of care to an animal seized under the bill's provisions, to establish, by a preponderance of evidence, that the animal was taken into custody for the purposes of protecting the animal from harm (not for the purposes of providing the animal with needed medical attention);

(7) clarify that an animal care agency having custody of a seized animal is prohibited from permanently altering the animal unless such alteration is medically necessary;

(8) clarify that, whenever a person is liable for, and has paid, the reasonable costs of an animal's care, and is found not guilty of the alleged violation that led to the seizure of the animal, such person will be eligible for reimbursement, from the animal care agency, for all of the reasonable costs of care expended thereby, including costs related to necessary veterinary care;

(9) provide that, whenever an animal care or enforcement agency petitions the court for an order requiring the forfeiture of an animal on the basis of a conviction in an animal cruelty proceeding, the agency may simultaneously petition the court for an order prohibiting the convicted person (but not prohibiting any other person who was convicted of conspiring, aiding, or abetting such person) from owning, harboring, residing with, or having custody or control of any other animals for a period of time deemed by the court to be appropriate;

(10) remove a provision of the bill that would have authorized an animal to be euthanized following conviction for an animal cruelty violation, but prior to the issuance of a court order requiring forfeiture of the animal, if a veterinarian has certified that the animal is in intractable and extreme pain and is beyond hope of recovery; and

(11) make technical changes to ensure that the bill's subdivision designations comport with modern bill drafting standards.