

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2354

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 2023

The Assembly Appropriations Committee favorably reports and with committee amendments Assembly Bill No. 2354 (1R).

As amended, 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 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 agency. The bill would also authorize a court, upon petition by a co-owner, to transfer custody of the animal to the co-owner upon a determination that certain conditions have been met. 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.

As reported by the committee, Assembly Bill No. 2354 (2R) is identical to Senate Bill No. 981 (2R), which also was reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments would:

(1) revise the requirements for expert testimony when an animal care agency files a complaint in the Superior Court seeking the reasonable costs of care for the animal to include only testimony on proper and reasonable care rather than community standards for such care;

(2) authorize a petition to the court at a defendant's sentencing by a co-owner of an animal that is the basis of a conviction for animal cruelty under the bill, to transfer custody of the animal upon a demonstration that the petitioner is a co-owner, does not reside with the defendant, has not been convicted of an animal cruelty violation, and did not have custody of the animal at the time of the violation for which the defendant was convicted; and

(3) authorize a court to transfer custody to a co-owner upon a finding that the co-owner meets the conditions established in the bill and that the transfer is in the best interests of the animal's health, safety, and well-being, and will further the goal of protecting the animal from further harm.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.