

SENATE, No. 2454

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED JUNE 30, 2016

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

Provides for confiscation and forfeiture of animals involved in animal cruelty violations, and for cost of their care while being held.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/15/2016)

1 AN ACT concerning the confiscation and forfeiture of animals
2 involved in animal cruelty offenses, and amending and
3 supplementing Title 4 of the Revised States.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.1995, c.255 (C.4:22-26.1) is amended to
9 read as follows:

10 1. **[An]** Notwithstanding the provisions of R.S.4:22-47,
11 R.S.4:22-28, or any other law, or rule or regulation adopted
12 pursuant thereto, to the contrary, a humane law enforcement officer
13 or agent of the New Jersey Society for the Prevention of Cruelty to
14 Animals, an agent of a county society the prevention of cruelty to
15 animals, other law enforcement officer, or a certified animal control
16 officer **[,]** may petition a court of competent jurisdiction to have
17 any animal confiscated **[and forfeited]** that is owned or possessed
18 by a person at the time the person is **[found to be guilty of violating**
19 R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20 or R.S.4:22-
20 23] charged with an alleged animal cruelty violation of chapter 22
21 of Title 4 of the Revised Statutes, P.L.2002, c.102 (C.4:19-38 et
22 seq.), section 1 of P.L.1983, c.261 (C.2C:29-3.1), section 1 of
23 P.L.2013, c.205 (C.2C:29-3.2), P.L.2015, c.85 (C.2C:33-31 et seq.),
24 or R.S.39:4-23, and petition for the animal's care pursuant to
25 section 3 of P.L. , c. (C.) (pending before the Legislature as
26 this bill). **[Upon]** Within 14 days of finding the person guilty of
27 the alleged animal cruelty violation, or upon a finding that the
28 continued possession by **[that]** the person poses a threat to the
29 animal's welfare, the court may, in addition to any other penalty that
30 may be imposed for a violation of **[R.S.4:22-17, R.S.4:22-18,**
31 R.S.4:22-19, R.S.4:22-20 or R.S.4:22-23] chapter 22 of Title 4 of
32 the Revised Statutes, P.L.2002, c.102 (C.4:19-38 et seq.), section 1
33 of P.L.1983, c.261 (C.2C:29-3.1), section 1 of P.L.2013, c.205
34 (C.2C:29-3.2), P.L.2015, c.85 (C.2C:33-31 et seq.), or R.S.39:4-23,
35 adjudge **[an]** the animal forfeited for such disposition as the court
36 deems appropriate pursuant to section 3 of P.L. , c. (C.)
37 (pending before the Legislature as this bill).
38 (cf: P.L.1995, c.255, s.1).

39
40 2. (New section) a. Notwithstanding the provisions of any law,
41 rule, or regulation to the contrary, a humane law enforcement
42 officer or agent of the New Jersey Society for the Prevention of
43 Cruelty to Animals or a county society the prevention of cruelty to
44 animals, other law enforcement officer, or a certified animal control

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 officer who has probable cause to believe an animal cruelty
2 violation has occurred:

3 (1) may immediately take physical custody of any animal
4 involved that is injured or at risk of imminent harm due to the
5 violation and any other animals that the officer or agent believes are
6 in danger of imminent harm;

7 (2) shall place them in the custody and care of an enforcement
8 agency or animal care provider; and

9 (3) as soon as practicable thereafter, shall file a petition pursuant
10 to section 1 of P.L.1995, c.255 (C.4:22-26.1) for the confiscation
11 and placement for care of any animal taken into custody pursuant to
12 this subsection.

13 b. For the purpose of this subsection, “animal cruelty violation”
14 means a criminal or civil animal cruelty violation of chapter 22 of
15 Title 4 of the Revised Statutes, P.L.2002, c.102 (C.4:19-38 et seq.),
16 section 1 of P.L.1983, c.261 (C.2C:29-3.1), section 1 of P.L.2013,
17 c.205 (C.2C:29-3.2), P.L.2015, c.85 (C.2C:33-31 et seq.), or
18 R.S.39:4-23.

19
20 3. (New section) a. Except as provided in subsection 1. of this
21 section, the owner of the animal or person with custody or control
22 of the animal at the time of the alleged violation shall be liable for
23 any reasonable costs incurred by the taking into custody and care of
24 the animal pursuant to section 2 of P.L. , c. (C.) (pending
25 before the Legislature as this bill). Reasonable costs shall include,
26 but need not be limited to, the cost of transportation, veterinary
27 care, board, shelter, or farrier services for the animal.

28 b. The enforcement agency or the animal care provider that
29 takes possession of an animal pursuant to section 2 of P.L. ,
30 c. (C.) (pending before the Legislature as this bill), pending
31 the disposition of the animal cruelty violation and final disposition
32 of the animal, shall file a petition to the court to issue an order to
33 place the animal in the care of the enforcement agency or the
34 animal care provider upon confiscation of the animal by the court.
35 The petitioning enforcement agency or animal care provider shall
36 serve a true copy of the petition upon the owner or person with
37 custody or control of the animal at the time of the alleged violation,
38 or post it at the last known address of the owner or such person. If
39 a person other than the owner of the animal or the person with
40 custody or control of the animal at the time of the alleged violation
41 is the alleged animal cruelty violator, the petitioning enforcement
42 agency or animal care provider shall also serve a true copy of the
43 petition upon the alleged violator or post it at the last known
44 address of the alleged violator.

45 c. Upon receipt of a petition filed pursuant to subsection b. of
46 this section, the court shall set a hearing for the confiscation and
47 placement for care of the animal. The hearing shall be conducted as
48 soon as practicable no sooner than 10 days, but no later than 21

1 days, after the date on which the petition is filed. The hearing shall
2 be limited to the confiscation and placement for care of the animal.
3 Failure to hold the hearing within 21 days after the filing of the
4 petition shall in no way determine the disposition of the animal
5 being held or effect the disposition of the animal cruelty violation.

6 d. No later than 10 days after the filing of the petition pursuant
7 to subsection b. of this section and prior to the hearing held
8 pursuant to subsection c. of this section, the court shall determine
9 the amount sufficient to repay all reasonable costs incurred, and
10 anticipated to be incurred, for the care of the animal at the
11 enforcement agency or animal care provider for at least thirty days,
12 and the necessary amount of security deposit or bond to be posted
13 pursuant to subsection e. of this section. The court shall determine
14 the amount based on the information and estimated costs presented
15 to the court by the petitioning enforcement agency or animal care
16 provider. The court may only reduce the required amount of the
17 security deposit or bond if the court concludes at a separate hearing,
18 and with sufficient proof, that the owner of the animal or person
19 with custody and control of the animal at the time of the alleged
20 violation is unable to pay the full amount. The court shall not
21 completely waive the security deposit or bond and shall require at
22 least a minimum and reasonable deposit of funds for the cost of care
23 of the animal as would be required to adequately care for such
24 animals by a reasonable person at the person's home for 30 days.

25 e. No later than five days after the date of the court's
26 determination pursuant to subsection d. of this section and prior to
27 the hearing held pursuant to subsection c. of this section, the owner
28 of the animal or person with custody and control of the animal at
29 the time of the alleged violation shall post a security deposit or
30 bond with the municipal or county treasurer, as directed by the
31 court, in the amount determined by the court pursuant to subsection
32 d. of this section.

33 f. At a hearing conducted pursuant to subsection c. of this
34 section, the petitioning enforcement agency or animal care provider
35 shall have the burden of establishing probable cause for believing
36 that the animal was the subject of an animal cruelty violation or was
37 at risk of harm from the alleged violator. A prior finding of
38 probable cause to proceed on the criminal case of animal cruelty
39 pursuant to R.S.4:22-17 or R.S.4:22-24 shall establish a
40 presumption that probable cause exists for the confiscation of the
41 animal.

42 g. If the court finds probable cause exists and the owner or
43 person with custody and control of the animal at the time of the
44 alleged violation does not comply with subsection e. of this section,
45 the court shall order immediate forfeiture of the animal to the
46 petitioning enforcement agency or animal care provider. If the
47 court finds probable cause exists and the owner or person with
48 custody and control of the animal at the time of the alleged

1 violation complies with subsection e. of this section, the court shall
2 order confiscation of the animal and placement for care of the
3 animal with the petitioning enforcement agency or animal care
4 provider until final disposition of the alleged animal cruelty
5 violation. If the court finds no probable cause exists, the animal
6 shall be returned to its owner of the animal or the person with
7 custody and control of the animal at the time of the alleged
8 violation and all security deposits and bonds posted shall be
9 reimbursed, pending final disposition of the animal cruelty
10 violation.

11 h. If the disposition of the animal cruelty violation is still
12 pending 15 days before the end of the time for which expenses are
13 covered by the security deposit or bond posted pursuant to
14 subsection e. of this section, the court shall order the owner of the
15 animal, or the person with custody and control of the animal at the
16 time of the alleged violation, to post an additional security deposit
17 or bond with the municipal or county treasurer, which shall be
18 posted no later than the expiration date of the previous security
19 deposit or bond. The court may correct, alter, or otherwise adjust
20 the new security deposit or bond upon a motion made before the
21 expiration date of the previous security deposit or bond, provided
22 however, no person may file more than one motion seeking an
23 adjustment to the new security deposit or bond.

24 i. If a security deposit or bond has been posted pursuant to this
25 section, the enforcement agency or animal care provider may draw
26 from that security deposit or bond reasonable costs for caring for
27 the animal from the date of the animal being placed in the custody
28 of the enforcement agency or animal care provider to the date of
29 final disposition of the animal after disposition of the animal cruelty
30 violation.

31 j. An animal shall be deemed abandoned and the enforcement
32 agency or animal care provider may determine final disposition of
33 the animal if:

34 (1) the owner or person with custody or control of the animal at
35 the time of the alleged animal cruelty violation does not claim an
36 ownership interest in the animal within 10 days after the date of
37 being taken into custody pursuant to section 2 of P.L. , c. (C.)
38 (pending before the Legislature as this bill);

39 (2) a security deposit or bond expires before an additional
40 security deposit or bond is posted; or

41 (3) no security deposit or bond is posted as required pursuant to
42 this section.

43 An owner or person with custody or control of the animal at the
44 time of the alleged animal cruelty violation who abandons an
45 animal pursuant to paragraph (1) of this subsection shall be guilty
46 of abandoning an animal and subject to the penalties provided
47 therefor pursuant to subsection b. of R.S.4:22-20 and the applicable
48 provisions of R.S.4:22-26.

1 k. The owner of the animal, or the person with custody and
2 control of the animal at the time of the alleged violation, shall be
3 liable for all unpaid reasonable costs of the care or disposal of the
4 animal. Posting of the security deposit or bond shall not prevent the
5 enforcement agency or animal care and control agency from
6 disposing of the seized or impounded animal before the expiration
7 of the period covered by the security deposit or bond if the owner
8 relinquishes or surrenders the animal and the State consents to the
9 disposition of the animal involved in any pending animal cruelty
10 violation case.

11 l. Upon disposition of the animal cruelty violation and final
12 disposition of the animal, any remaining funds deposited with the
13 municipal or county treasurer which have not been expended in the
14 care, keeping, or disposal of the animal shall be remitted to the
15 owner of the animal or the person with custody and control of the
16 animal at the time of the alleged violation. If the alleged animal
17 cruelty violator is found guilty, or liable for, any charge of animal
18 cruelty, and the animal cruelty violator is not the owner of the
19 animal or the person with custody and control of the animal at the
20 time of the alleged violation, the court shall order the violator to
21 pay the owner of the animal or the person with custody and control
22 of the animal at the time of the alleged violation any security
23 deposit or bond posted thereby, and any uncovered reasonable
24 expenses incurred by the enforcement agency or animal care
25 provider. The court may forfeit all animals owned by the animal
26 cruelty violator to the enforcement agency or animal care provider.
27 If the alleged animal cruelty violator is acquitted of all charges, the
28 court may return the animals to the owner of the animal or the
29 person with custody and control of the animal at the time of the
30 alleged violation, upon a determination that the owner or other
31 person is able to adequately care for the animal.

32 m. Notwithstanding any other provisions of law, or rule or
33 regulation adopted pursuant thereto, to the contrary, an animal may
34 be euthanized immediately, if a licensed veterinarian determines
35 and certifies in writing, after examining the animal, that the animal
36 is experiencing intractable and extreme pain and is beyond any
37 reasonable hope of recovery.

38 n. No proceeding under this section shall be used as a basis for
39 a continuance or to delay the criminal case nor shall proceedings in
40 the criminal case, other than dismissal, be used as a basis to delay
41 or continue the forfeiture proceeding as provided for in this section.
42 Proceedings under this section are of a civil nature and governed by
43 the State rules of civil procedure except as to limitations upon the
44 discovery process. Due to the need to conduct, any proceeding
45 necessary under this section in an expeditious manner, and the right
46 of any criminal defendant to avoid self-incrimination, any and all
47 discovery requests shall be granted only under authority of the
48 court. Discovery shall be authorized with the intent to provide the

1 necessary information relating directly to the evidence for the
2 probable cause proceeding. In no event shall discovery mechanisms
3 be used to unreasonably burden the opposing party. Discovery
4 mechanisms shall not include the deposition of any party, witness or
5 representative, the use of interrogatories, or the demand to inspect
6 any records outside the immediate reports and financial accountings
7 for the animal in question.

8 o. Nothing in this section is meant to hinder or prevent the
9 State from holding any animal as evidence pending disposition in a
10 criminal case.

11 p. No enforcement agency or animal care provider shall be held
12 liable for holding or providing care for any animal pursuant to this
13 section.

14 q. For the purposes of this section:

15 “Animal care provider” means any animal rescue organization or
16 animal rescue organization facility, foster home, shelter, pound, or
17 other facility authorized or otherwise used for holding an animal
18 pending disposition of a criminal or civil charge of animal cruelty.

19 “Animal cruelty violation” means a criminal or civil animal
20 cruelty violation of chapter 22 of Title 4 of the Revised Statutes,
21 P.L.2002, c.102 (C.4:19-38 et seq.), section 1 of P.L.1983, c.261
22 (C.2C:29-3.1), section 1 of P.L.2013, c.205 (C.2C:29-3.2),
23 P.L.2015, c.85 (C.2C:33-31 et seq.), or R.S.39:4-23.

24 “Enforcement agency” means any agency, department,
25 organization or society or representative thereof involved in law
26 enforcement or animal control, or monitoring of animal welfare and
27 animal cruelty violations, including, but not necessarily limited to,
28 the New Jersey Society for the Prevention of Cruelty to Animals, a
29 county society the prevention of cruelty to animals, or municipal
30 law enforcement animal holding facilities.

31

32 4. Section 6 of P.L.1989, c.35 (C.4:22-48.1) is amended to read
33 as follows:

34 6. a. A person authorized to take possession of **【a living】** an
35 animal **【or creature】** pursuant to R.S. 4:22-47 **【may】** and section 2
36 of P.L. , c. (C.) (pending before the Legislature as this bill),
37 shall provide such shelter, care, and treatment therefor, including
38 veterinary care and treatment, that is reasonably necessary, the costs
39 of which shall be borne by the owner of the seized animal **【or**
40 creature**】** as provided pursuant to R.S.4:22-48 and section 3 of
41 P.L. , c. (C.) (pending before the Legislature as this bill).

42 b. Notwithstanding the provisions of R.S.4:22-48 to the
43 contrary, a person seizing **【a living】** an animal **【or creature】**
44 pursuant to R.S.4:22-47 and section 2 of P.L. , c. (C.)
45 (pending before the Legislature as this bill), may **【destroy it】**
46 ethanize or provide for the euthanizing of the animal before **【it is**
47 adjudged forfeited**】** a court has ruled on the forfeiture, sale or
48 euthanizing of the animal, if the person seizing the animal **【or**

1 creature is thought] believes the animal to be beyond reasonable
2 hope of recovery [, the] and as provided pursuant to section 3 of
3 P.L. , c. (C.) (pending before the Legislature as this bill).
4 The cost of [which destruction] euthanizing of the animal shall be
5 borne by the owner of the seized animal [or creature] pursuant to
6 section 3 of P.L. , c. (C.) (pending before the Legislature as
7 this bill). A person [destroying an animal or creature] acting
8 pursuant to the authority of this subsection shall not be liable
9 [therefor] for any damages to the owner of the animal [or
10 creature].

11 (cf: P.L.1989, c.34, s.6)

12

13 5. Section 1 of P.L.1997, c.121 (C.4:22-48.2) is amended to
14 read as follows:

15 1. The costs of sheltering, caring for, or treating any animal
16 that has been confiscated from a person arrested pursuant to the
17 provisions of R.S.4:22-47 by [an agent] a humane law enforcement
18 officer of the New Jersey Society for the Prevention of Cruelty to
19 Animals or of a county society for the prevention of cruelty to
20 animals, an animal cruelty investigator or any other person
21 authorized to make an arrest pursuant to article 2 of chapter 22 of
22 Title 4 of the Revised Statutes, or an animal confiscated pursuant to
23 section 1 of P.L.1995, c.255 (C.4:22-26.1) and section 3 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill) until the
25 animal is adjudged forfeited or until the animal is returned to the
26 owner, shall be borne by the owner of the animal pursuant to
27 section 3 of P.L. , c. (C.) (pending before the Legislature as
28 this bill).

29 (cf: P.L.1997, c.121, s.1)

30

31 6. R.S.4:22-50 is amended to read as follows:

32 4:22-50. When a person arrested [under the provisions of this
33 article] is in charge of an animal at the time of the arrest, with or
34 without a vehicle attached, [and there is no one then present, other
35 than the person arrested, to take charge of the property as owner or
36 employee], the person making the arrest [may take charge thereof
37 or request a proper person to do so] shall take the animal to an
38 enforcement agency or animal care facility as provided for in
39 section 2 of P.L. , c. (C.) (pending before the Legislature as
40 this bill).

41 The person making the arrest shall promptly notify the owner of
42 the taking of the animal or other property, as applicable, and [its]
43 the place of custody, [either] in person, by telephone, or by mailing
44 a notice to [his] the last known [post-office] address[, and a] of
45 the owner. The person [in] taking charge of the animal or other
46 property at the time of the arrest, with permission of the owner,

1 shall be deemed the agent of the owner to receive such notice.
2 (cf: R.S.4:22-50)

3

4 7. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill provides for the confiscation and forfeiture of animals
10 involved in animal cruelty violations, and for the coverage of the
11 cost of their care while the animals are held pending violation and
12 forfeiture proceedings.