

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2454

STATE OF NEW JERSEY
217th LEGISLATURE

ADOPTED OCTOBER 20, 2016

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

Provides for cost of care of animals involved in animal cruelty violations while being held pending disposition of violation.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Economic Growth Committee.



1 AN ACT concerning the cost of care for animals involved in animal
2 cruelty offenses, supplementing Title 4 of the Revised Statutes,
3 and amending various sections of the statutory law.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) a. Any law enforcement officer or
9 enforcement agency who has probable cause to believe the owner of
10 an animal or the person with custody or control of an animal
11 committed an animal cruelty violation involving the animal may
12 seize and take custody of the animal, and provide the animal with
13 necessary care, pending disposition of the violation. After seizing
14 an animal, the law enforcement officer or enforcement agency shall
15 promptly notify the owner of the animal that the animal has been
16 seized. The notice may be provided in person, by telephone, or in
17 writing by mailing the notice to, or posting the notice at, the last
18 known address of the owner of the animal or the person with
19 custody of the animal at the time the animal was seized. Any seized
20 animal shall be placed in the care of an enforcement agency or an
21 animal care provider.

22 b. Whenever an animal is seized and placed in the care of an
23 enforcement agency or animal care provider pursuant to subsection
24 a. of this section, the owner of the animal shall be liable for the
25 reasonable costs for necessary care of the animal. The enforcement
26 agency or animal care provider with custody of the animal may
27 petition the appropriate court:

28 (1) to require the owner of the animal to post a cost-of-care
29 security deposit, bond, or other financial instrument pursuant to
30 subsection g. of this section; and

31 (2) for an order stating that, if the cost-of-care security deposit,
32 bond, or other financial instrument is not posted or renewed in a
33 timely manner, the animal shall be considered abandoned property
34 and the enforcement agency or animal care provider is authorized to
35 assume ownership of the abandoned property, as defined and
36 provided for pursuant to P.L.1999, c.331 (C.46:30C-1 et seq.).

37 The petition filed pursuant to this subsection shall include an
38 estimate of the reasonable costs to the enforcement agency or
39 animal care provider of the first 30 days of holding and providing
40 necessary care for the animal.

41 The petitioning enforcement agency or animal care provider shall
42 serve upon the owner of the animal, in person, by mail, or by
43 posting it at the owner's last known address, a written copy of the
44 petition and a notice to the owner of the animal that failure by the
45 owner of the animal to post the cost-of-care security deposit, bond,

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 or other financial instrument as ordered by the court shall result in
2 the animal being considered abandoned property and the
3 enforcement agency or animal care provider assuming ownership of
4 the animal.

5 c. At any time after the animal has been seized, the owner of
6 the animal may relinquish ownership of the animal to the
7 enforcement agency or animal care provider by notifying the
8 enforcement agency or animal care provider, as applicable, in
9 writing. If the enforcement agency or animal care provider has
10 filed a petition pursuant to subsection b. of this section, it shall
11 immediately notify the court that the owner has relinquished
12 ownership of the animal as provided in this subsection.

13 d. Upon receipt of a petition filed pursuant to subsection b. of
14 this section, the court shall schedule a hearing for the posting of the
15 cost-of-care security deposit, bond, or other financial instrument,
16 and to determine whether there is probable cause that the owner of
17 the animal committed an animal cruelty violation. The petitioning
18 enforcement agency or animal care provider shall have the burden
19 of proof to establish probable cause. The hearing shall be
20 conducted as soon as practicable, but no later than 30 days after the
21 date on which the petition is filed. Failure to hold the hearing
22 within 30 days after filing of the petition shall not determine
23 disposition of the animal or affect disposition of the animal cruelty
24 violation.

25 e. The hearing required pursuant to subsection d. of this section
26 shall not be used as a basis for a continuance or delay of the
27 criminal or civil animal cruelty case, nor shall proceedings in the
28 criminal or civil animal cruelty case, other than dismissal, be used
29 as a basis to delay any decision or action by the court pursuant to
30 this section. If the court authorizes any discovery, there shall be no
31 deposition of any party, witness, or representative, use of
32 interrogatories, or demand to inspect any records outside the
33 immediate reports and financial accountings concerning the animal
34 in question from the enforcement agency, animal care provider,
35 owner of the animal, or person with custody or control of the animal
36 at the time of the alleged violation.

37 f. Based on the information and estimated costs presented to
38 the court by the petitioning enforcement agency or animal care
39 provider, the court shall determine the amount sufficient to repay all
40 reasonable costs incurred, and reasonable costs anticipated to be
41 incurred, for the holding and care of the animal by the enforcement
42 agency or animal care provider for at least 30 days, and the required
43 amount of the cost-of-care security deposit, bond, or other financial
44 instrument to be posted pursuant to subsection g. of this section.

45 The court may reduce the required amount of the cost-of-care
46 security deposit, bond, or other financial instrument only if the
47 court concludes, with sufficient proof provided by the owner of the
48 animal, that the owner is unable to pay the full amount. The court
49 shall then determine a reasonable amount for covering the costs of

1 necessary care for the animal that the owner can afford.
2 Notwithstanding the provisions of section 1 of P.L.2009, c.317
3 (C.2B:12-23.1), or any other law, rule, or regulation, to the
4 contrary, in no case shall the court waive the requirement for the
5 owner to pay a cost-of-care security deposit, bond, or other
6 financial instrument.

7 g. After finding probable cause pursuant to subsection d. of this
8 section and making the determination pursuant to subsection f. of
9 this section, the court shall order:

10 (1) the owner of the animal to post (a) the required amount of the
11 cost-of-care security deposit, bond, or other financial instrument no
12 later than five days after the date of issuance of the court order, and
13 (b) an additional cost-of-care security deposit, bond, or financial
14 instrument in the same amount every 30 days after the date of the
15 order until final disposition of the animal cruelty violation or the
16 animal involved;

17 (2) that failure to post any required cost-of-care security deposit,
18 bond, or other financial instrument in a timely manner shall result in
19 the animal becoming abandoned property and the petitioning
20 enforcement agency or animal care provider assuming ownership of
21 the abandoned property as defined and provided for pursuant to
22 P.L.1999, c.331 (C.46:30C-1 et seq.); and

23 (3) the manner in which any cost-of-care security deposit, bond,
24 or other financial instrument shall be posted and made available for
25 disbursement to the enforcement agency or animal care provider.

26 h. The enforcement agency or animal care provider may draw
27 from any cost-of-care security deposit, bond, or other financial
28 instrument posted pursuant to this section amounts equal to the
29 reasonable costs for the holding and care of the animal from the
30 date that the animal is placed in the custody of the enforcement
31 agency or animal care provider to the date of final disposition of the
32 animal, in the manner ordered by the court pursuant to paragraph
33 (3) of subsection g. of this section.

34 i. Prior to final disposition of the animal cruelty violation, the
35 court may order, in response to a petition filed pursuant to
36 paragraph (2) of subsection b. of this section, that the animal is
37 abandoned property and authorize the enforcement agency or
38 animal care provider with custody of the animal to assume
39 ownership thereof pursuant to P.L.1999, c.331 (C.46:30C-1 et seq.)
40 if:

41 (1) the court found probable cause that the owner of the animal
42 committed an animal cruelty violation pursuant to subsection d. of
43 this section; and

44 (2) the owner of the animal has failed to post the cost-of-care
45 security deposit, bond, or other financial instrument required
46 pursuant to subsection g. of this section.

47 j. The court may adjust the amount of any additional cost-of-
48 care security deposit, bond, or other financial instrument upon a
49 motion made by either party, provided however that no party may

1 file more than one motion seeking an adjustment to a cost-of-care
2 security deposit, bond, or other financial instrument.

3 k. Upon final disposition of the animal, any remaining funds
4 from any cost-of-care security deposit, bond, or other financial
5 instrument which have not been expended for reasonable costs
6 incurred for the holding and care of the animal shall be remitted to
7 the owner of the animal.

8 l. No provision of this section shall preclude a seized animal
9 from being held as evidence. No animal shall be returned to the
10 owner of the animal or a family member thereof while a criminal
11 case is pending, without permission from the prosecutor handling
12 the case.

13 m. No enforcement agency or animal care provider shall be held
14 liable for any damages related to the holding and care of the animal
15 pursuant to this section, except in the case of recklessness or
16 intentional misconduct.

17 n. As used in this section:

18 “Animal care provider” means any animal rescue organization or
19 animal rescue organization facility, foster home, shelter, pound, or
20 other facility authorized or otherwise used for holding and caring
21 for an animal pending disposition of an animal cruelty violation.

22 “Animal cruelty violation” means a criminal or civil violation of
23 an animal cruelty law in chapter 22 of Title 4 of the Revised
24 Statutes.

25 “Enforcement agency” means any agency, department,
26 organization, or society, or an agent, humane law enforcement
27 officer, or representative thereof, involved in law enforcement or
28 animal control, or the monitoring of animal welfare and animal
29 cruelty violations, including, but not limited to, the New Jersey
30 Society for the Prevention of Cruelty to Animals, a county society
31 for the prevention of cruelty to animals, a certified animal control
32 officer, or a county or municipality with law enforcement animal
33 holding facilities.

34 “Necessary care” means the same as that term is defined in
35 R.S.4:22-15.

36 “Reasonable costs” mean costs incurred by an enforcement
37 agency or animal care provider to provide an animal with necessary
38 care, necessary and proper and transportation of the animal, farrier
39 services, and euthanasia if it is necessary to euthanize the animal
40 while the animal is in the custody of the enforcement agency or
41 animal care provider.

42

43 2. (New section) Notwithstanding the provisions of any other
44 law, or any rule or regulation adopted pursuant thereto, to the
45 contrary, an animal seized pursuant to section 1 of P.L. ,

46 c. (C.) (pending before the Legislature as this bill) may be
47 euthanized immediately only if a licensed veterinarian examines the
48 animal and, after examining the animal, determines and certifies in
49 writing that the animal is experiencing intractable and extreme pain

1 and is beyond any reasonable hope of recovery.

2

3 3. R.S.4:22-24 is amended to read as follows:

4 4:22-24. a. A person who shall:

5 **【a.】** (1) Keep, use, be connected with or interested in the
6 management of, or receive money for the admission of a person to,
7 a place kept or used for the purpose of fighting or baiting a living
8 animal or creature;

9 **【b.】** (2) Be present and witness, pay admission to, encourage or
10 assist therein;

11 **【c.】** (3) Permit or suffer a place owned or controlled by him to
12 be so used;

13 **【d.】** (4) For amusement or gain, cause, allow, or permit the
14 fighting or baiting of a living animal or creature;

15 **【e.】** (5) Own, possess, keep, train, promote, purchase, or
16 knowingly sell a living animal or creature for the purpose of
17 fighting or baiting that animal or creature; or

18 **【f.】** (6) Gamble on the outcome of a fight involving a living
19 animal or creature--

20 Shall be guilty of a crime of the third degree.

21 For the purposes of this section "bait" means to attack with
22 violence, to provoke, or to harass an animal with one or more
23 animals for the purpose of training the animal for, or to cause an
24 animal to engage in, a fight with or among other animals.

25 b. In addition to the penalties set forth in Title 2C of the New
26 Jersey Statutes for a crime of the third degree, a court may order a
27 prohibition on any future ownership or possession of any animal by
28 a person found guilty of a violation of subsection a. of this section.

29 (cf: P.L.2015, c.85, s.4)

30

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

33 1. **【An】** a. A humane law enforcement officer or agent of the
34 New Jersey Society for the Prevention of Cruelty to Animals, an
35 agent of a county society for the prevention of cruelty to animals, a
36 law enforcement officer, or a certified animal control officer, may
37 seize an animal involved in a violation of R.S.4:22-17, R.S.4:22-18,
38 R.S.4:22-19, R.S.4:22-20, or R.S.4:22-23 and may petition 【a】 the
39 appropriate court 【of competent jurisdiction to have any animal
40 confiscated and forfeited that is】 to forfeit any animal owned or
41 possessed by a person at the time the person is found to be guilty of
42 【violating】 a violation thereof.

43 b. If a humane law enforcement officer or agent of the New
44 Jersey Society for the Prevention of Cruelty to Animals, an agent of
45 a county society for the prevention of cruelty to animals, a law
46 enforcement officer, or a certified animal control officer has
47 probable cause to believe that the owner of an animal has
48 committed a violation of R.S.4:22-17, R.S.4:22-18, R.S.4:22-19,
49 R.S.4:22-20, or R.S.4:22-23, the humane law enforcement officer or

1 agent of the New Jersey Society for the Prevention of Cruelty to
2 Animals, agent of a county society for the prevention of cruelty to
3 animals, a law enforcement officer, or certified animal control
4 officer may seize the animal and petition for the animal's cost-of-
5 care pursuant to section 1 of P.L. , c. (C.) (pending before
6 the Legislature as this bill). **【Upon a finding that the continued**
7 **possession by that person poses a threat to the animal's welfare】**

8 c. Within 14 days after finding a person guilty of a violation of
9 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-
10 23, the court may, in addition to any other penalty that may be
11 imposed for a violation of R.S.4:22-17, R.S.4:22-18, R.S.4:22-19,
12 R.S.4:22-20, or R.S.4:22-23 [,]:

13 (1) adjudge [an animal] forfeited the seized animal and any
14 other animal owned by or in possession of the person found guilty
15 of the violation for such disposition as the court deems appropriate;
16 and

17 (2) order a prohibition on any future ownership or possession of
18 any animal by the person found guilty of the violation.

19 Paragraph (1) of this subsection shall not apply to an animal
20 whose ownership has been assumed by an enforcement agency or
21 animal care provider pursuant to section 1 of P.L. , c. (C.)
22 (pending before the Legislature as this bill).

23 d. The court, prior to final disposition of the alleged violation
24 of 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-
25 23, may adjudge any seized animal whose owner is the alleged
26 violinator to be abandoned property pursuant to section 1 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill).

28 (cf: P.L.1995, c.255, s.1)

29
30 5. R.S.4:22-48 is amended to read as follows:

31 4:22-48. a. The person seizing animals [, creatures],
32 implements, or appliances, as authorized in [section] R.S.4:22-47
33 [of this Title], shall, within 24 hours thereafter, apply to [a] the
34 appropriate court [of competent jurisdiction] to have the [same]
35 animals, implements, or appliances forfeited [and sold].

36 If, upon the hearing of the application, [it is found and
37 adjudged] the court finds and determines that at the time of the
38 seizure the animals, [creatures,] implements, or appliances were
39 engaged or used in violation of [section 4:22-47] R.S.4:22-24 or
40 [paragraphs "e," "f," "g," "u," "v," or "w" of section 4:22-26 of this
41 Title] subsection e., f., g., u., v., or w. of R.S.4:22-26, or were
42 owned, possessed or kept with the intent that they should be so
43 engaged or used, [they] the animals, implements, or appliances
44 shall be adjudged forfeited, and the court shall order [the same sold
45 in such a manner as it shall deem proper, after deducting the costs
46 and expenses, shall dispose of the proceeds as provided in section
47 4:22-55 of this Title.

48 A bird or animal found or adjudged to be of no use or value may
49 be liberated or disposed of as directed by the court] any animal to

1 be released, placed in a shelter, pound, or other animal care facility,
2 or euthanized, as appropriate, and any implements or appliances
3 destroyed, unless required to be kept as evidence.

4 b. Any animal found to be in intractable and extreme pain and
5 beyond any reasonable hope of recovery, as certified to the court in
6 writing by a licensed veterinarian, may be euthanized immediately
7 and prior to the court's action on the application.

8 The costs of sheltering, caring for, treating, and if necessary,
9 **【destroying】** euthanizing an animal **【or creature】**, including
10 veterinary expenses therefor, until the animal **【or creature】** is
11 adjudged forfeited **【and sold, liberated, or disposed of pursuant to**
12 **this section】** pursuant to subsection a. of this section, or adjudged
13 abandoned property pursuant to section 1 of P.L. , c. (C.)
14 (pending before the Legislature as this bill), shall be borne by the
15 owner of the animal 【or creature】 as provided for pursuant to
16 section 1 of P.L. , c. (C.) (pending before the Legislature
17 as this bill).

18 **【A creature】** An animal or property which is adjudged not
19 forfeited , or whose ownership is not assumed by an enforcement
20 agency or animal care provider pursuant to section 1 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill), shall be
22 returned to the owner, and the person making the seizure shall pay
23 all costs of care and expenses 【thereof】 as determined by the court.
24 (cf: P.L.1989, c.35, s.5)

25
26 6. Section 6 of P.L.1989, c.35 (C.4:22-48.1) is amended to read
27 as follows:

28 6. a. A person authorized to take possession of **【a living】** an
29 animal 【or creature】 pursuant to R.S.4:22-47 【may provide such
30 shelter, care, and treatment therefor, including veterinary care and
31 treatment, that is reasonably necessary】 shall place the animal in a
32 shelter, pound, or other animal care facility to provide necessary
33 care for the animal, the costs of which shall be borne by the owner
34 of the seized animal 【or creature】 as provided pursuant to
35 R.S.4:22-48 and section 1 of P.L. , c. (C.) (pending before
36 the Legislature as this bill).

37 b. Notwithstanding the provisions of R.S.4:22-48 to the
38 contrary, a person seizing **【a living】** an animal **【or creature】**
39 pursuant to R.S.4:22-47 may 【destroy it】 provide for the
40 euthanizing of the animal before 【it is adjudged forfeited】 a court
41 has ordered the forfeiture or disposition of the animal, if the person
42 seizing the animal 【or creature is thought to be】 has the animal
43 examined by a licensed veterinarian, and the licensed veterinarian,
44 after examining the animal, determines and certifies in writing that
45 the animal is experiencing intractable and extreme pain and is
46 beyond reasonable hope of recovery 【, the】. The cost of 【which
47 destruction】 euthanizing the animal shall be borne by the owner of
48 the seized animal 【or creature. A person destroying an animal or
49 creature pursuant to the authority of this subsection shall not be

1 liable therefor to the owner of the animal or creature] except as
2 otherwise provided pursuant to subsection f. of R.S.4:22-17. No
3 person acting in good faith and in compliance with the provisions of
4 this subsection shall be liable for damages to the owner of the
5 animal.

6 (cf: P.L.1989, c.35, s.6)

7

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

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

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

26

27 8. R.S.4:22-50 is amended to read as follows:

28 4:22-50. a. When a person arrested [under the provisions of
29 this article,] for an alleged animal cruelty violation pursuant to
30 chapter 22 of Title 4 of the Revised Statutes is in charge of an
31 animal at the time of the arrest, with or without a vehicle attached,
32 [and there is no one then present, other than the person arrested, to
33 take charge of the property as owner or employee,] the person
34 making the arrest [may take charge thereof or request a proper
35 person to do so] shall seize and take the animal to an enforcement
36 agency or animal care provider as defined in subsection n. of
37 section 1 of P.L. , c. (C.) (pending before the Legislature
38 as this bill), and have any vehicle or other property involved
39 properly impounded.

40 b. The person making the arrest shall promptly notify the
41 owner of:

42 (1) the seizure and taking of the [property] animal and [its place
43 of] the enforcement agency or animal care provider with custody [,
44 either] of the animal; and

45 (2) if any other property is impounded, the property impounded
46 and where it is impounded.

47 The notice may be provided in person, by telephone, or in
48 writing by mailing a notice to [his] , or posting it at, the last known
49 [post-office] address [, and a] of the owner. The person in charge

1 of the animal or other property at the time of the arrest and seizure,
2 with permission of the owner, shall be deemed the agent of the
3 owner to receive such notice.

4 (cf: R.S.4:22-50)

5

6 9. Section 5 of P.L.1999, c.331 (C.46:30C-5) is amended to
7 read as follows:

8 5. a. **【This act】** P.L.1999, c.331 (C.46:30C-1 et seq.) does not
9 apply to property:

10 (1) Subject to the provisions of the "Uniform Unclaimed
11 Property Act (1981)" (R.S.46:30B-1 et seq.).

12 (2) The acquisition or ownership of which requires a license ,
13 other than a cat, dog, or other animal which a municipality may
14 require its owner to license, or property the ownership of which can
15 be transferred only by document title.

16 b. **【This act】** P.L.1999, c.331 (C.46:30C-1 et seq.) does not
17 supersede statutes regulating abandoned and unclaimed motor
18 vehicles pursuant to the provisions of P.L.1964, c.81 (C.39:10A-1
19 et seq.) or abandoned vessels pursuant to the provisions of
20 P.L.1975, c.369 (C.12:7C-7 et seq.).

21 c. An enforcement agency or animal care provider may assume
22 ownership of an animal seized in connection with an animal cruelty
23 violation pursuant to P.L.1999, c.331 (C.46:30C-1 et seq.) and
24 section 1 of P.L. , c. (C.) (pending before the Legislature
25 as this bill). As used in this subsection, "animal care provider,"
26 "animal cruelty violation," and "enforcement agency" mean the
27 same as each of those terms is defined in subsection n. of section 1
28 of P.L. , c. (C.) (pending before the Legislature as this
29 bill).

30 (cf: P.L.1999, c.331, s.5)

31

32 10. This act shall take effect immediately.