

ASSEMBLY, No. 781

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman BOB ANDRZEJCZAK
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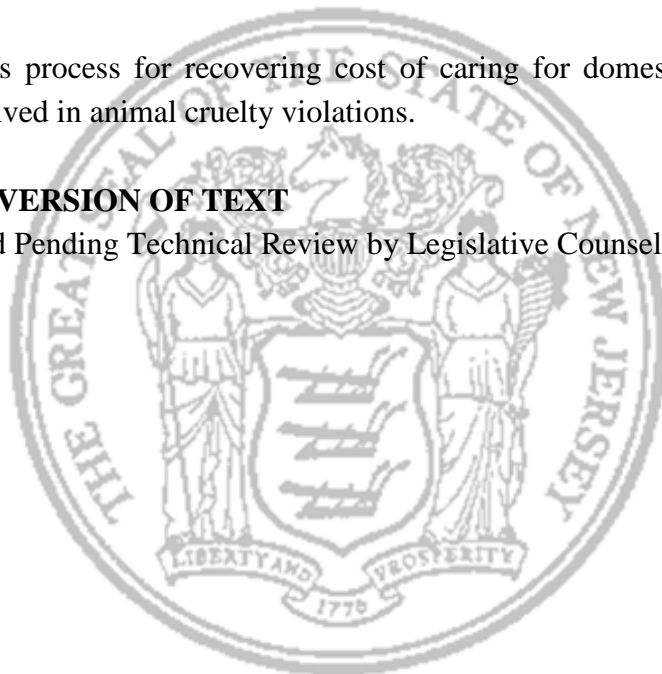
Assemblyman Gusciora, Assemblywoman Mosquera and Assemblyman Chiaravalloti

SYNOPSIS

Establishes process for recovering cost of caring for domestic companion animals involved in animal cruelty violations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning cost of care for domestic companion animals
2 involved in animal cruelty violations, and supplementing Title 4
3 of the Revised Statutes.
4

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

8 1. a. Any law enforcement officer or enforcement agency who
9 has probable cause to believe the owner of a domestic companion
10 animal or the person with custody or control of a domestic companion
11 animal committed an animal cruelty violation involving the animal
12 may seize and take custody of the animal, and provide the animal with
13 necessary care, pending disposition of the violation. After seizing a
14 domestic companion animal, the law enforcement officer or the
15 enforcement agency shall promptly notify the owner of the animal that
16 the animal has been seized.

17 b. Whenever a domestic companion animal owned by a defendant
18 in any action alleging an animal cruelty violation pursuant to chapter
19 19 or 22 of Title 4 of the Revised Statutes, Title 2C of the New Jersey
20 Statutes, or any other State animal cruelty law, is impounded as a
21 result of the pending action, the custodial animal care agency shall, no
22 later than seven days after the animal has been impounded, serve a
23 custodial care notice upon the defendant by certified mail, return
24 receipt requested, or personally as permitted by the Rules of the Court
25 of New Jersey. The custodial care notice shall include:

26 (1) the name, business address, and telephone number of the
27 shelter, pound, kennel, or animal care facility where the animal is
28 impounded;

29 (2) a description of the impounded animal, including a
30 veterinarian's assessment of the animal's condition and needs;

31 (3) an itemized accounting of the actual costs of caring for the
32 animal for the first seven days of impoundment;

33 (4) an itemized accounting of the projected reasonable costs of
34 caring for the animal for each 30-day period during which the animal
35 may be impounded thereafter;

36 (5) a statement that the defendant shall, in accordance with the
37 provisions of subsection c. of this section, either:

38 (a) pay the amounts set forth in the custodial care notice; or

39 (b) file, within 10 business days with the court with jurisdiction
40 over disposition of the alleged animal cruelty violation, a request for a
41 hearing to contest the reasonableness of the amounts set forth in the
42 custodial care notice, as specified in paragraph (3) of subsection c. of
43 this section;

44 (6) a statement that the reasonable estimated veterinary care and
45 related costs such as medicine and vaccinations, and the cost of food,
46 water, and bedding, as set forth in the notice or, if contested, as
47 determined by the court, shall constitute a lien on the animal and that

1 the animal shall not be returned to the defendant until the charges are
2 paid;

3 (7) a statement that if the defendant fails to pay the reasonable
4 costs, the ownership of the animal shall transfer by operation of law to
5 the custodial care agency on the 16th business day after the
6 defendant's receipt of the custodial care notice; and

7 (8) a copy of this act for the defendant's information.

8 c. (1) The custodial animal care agency shall quantify the actual
9 costs of caring for the animal for the first seven days of the
10 impoundment, and the projected reasonable costs of caring for the
11 animal for each 30-day period during which the animal may be
12 impounded thereafter, and shall include these amounts in the custodial
13 care notice. These amounts shall include, but need not be limited to,
14 reasonable and necessary veterinary care and related costs such as
15 medicine and vaccinations, and the cost of food, water, and bedding.

16 (2) Within 15 business days after receiving the initial custodial
17 care notice, the defendant shall:

18 (a) pay the actual costs resulting from the first seven days of the
19 animal's impoundment, as set forth in the notice; and

20 (b) pay the projected reasonable costs associated with the next 30-
21 day period of continued impoundment as set forth in the notice.

22 (3) (a) Within 10 business days after receipt of the custodial care
23 notice, the defendant may request the court with jurisdiction over
24 disposition of the alleged animal cruelty violation to conduct a hearing
25 at which the defendant may contest the reasonableness of the amounts
26 set forth in the notice. The defendant shall simultaneously provide
27 written notice to the custodial animal care agency that the defendant
28 has requested a hearing to contest the amounts set forth in the notice
29 which, upon receipt by the custodial animal care agency, shall stay any
30 further legal action regarding the ownership of the animal as provided
31 in this act.

32 (b) Upon receiving a request for a hearing from the defendant, the
33 court shall hold the hearing on the next date the court convenes
34 following the date upon which it receives the request from the
35 defendant.

36 (c) At any hearing to contest the charges contained in the custodial
37 care notice, the custodial animal care agency shall establish that the
38 amounts set forth in the notice are correct and reasonable. In
39 determining the reasonableness of these amounts, the court may
40 consider:

41 (i) actual and estimated veterinary care and related costs such as
42 medicine and vaccinations;

43 (ii) actual and estimated costs of food, water, and bedding;

44 (iii) actual and estimated costs charged in comparable cases of
45 animal cruelty;

46 (iv) the particular facts and circumstances; and

47 (v) the defendant's ability to pay.

- 1 (4) An impounded animal shall be deemed abandoned, and the
2 custodial animal care agency shall assume ownership of the animal by
3 operation of law, if:
- 4 (a) the custodial animal care agency has proof of service showing
5 that the custodial care notice was served on the defendant named
6 therein;
- 7 (b) (i) the defendant named in the custodial care notice has failed
8 to request a hearing to contest the amounts specified in the notice
9 within the time allotted in subparagraph (a) of paragraph (3) of this
10 subsection; or
- 11 (ii) a court has determined that the amounts specified in the notice
12 are reasonable; and
- 13 (c) the defendant has failed to pay any of the costs specified in the
14 custodial care notice, or that have otherwise been established by the
15 court, within the timeframes allotted for payment thereof.
- 16 (5) Upon assuming ownership of the animal pursuant to this act,
17 the custodial animal care agency may offer the animal for adoption or
18 take any other action regarding the animal as authorized by section 16
19 of P.L.1941, c.151 (C.4:19-15.16).
- 20 d. Every 20 days after the defendant's receipt of the initial
21 custodial care notice, or if the costs therein are contested, every 20
22 days after the court has determined the reasonable costs of caring for
23 the animal, the custodial animal care agency shall issue, in the same
24 manner as the initial custodial care notice, a notice of the projected
25 reasonable costs of caring for the animal for the next 30-day period.
26 Within 10 business days after the defendant receives the subsequent
27 notice with the projected reasonable costs for the next 30-day period of
28 continued impoundment, the defendant shall pay the projected
29 reasonable costs as set forth in the notice.
- 30 e. No animal shall be sold, euthanized, offered for adoption, or
31 otherwise disposed of by the custodial animal care agency pursuant to
32 this act, if the defendant pays the costs specified in the custodial care
33 notice or as determined by the court within the time allotted, or while a
34 court hearing contesting the amounts specified in the custodial care
35 notice is pending, except that no provision of this act shall prohibit the
36 immediate euthanizing of an animal if, in the opinion of a licensed
37 veterinarian, the animal is experiencing severe pain and is beyond any
38 reasonable hope of recovery.
- 39 f. The defendant shall be liable for any reasonable costs for the
40 care of the animal up to and including the date on which the animal is
41 released to the defendant, otherwise leaves the care of the animal care
42 facility, or is euthanized. If the animal is euthanized, the defendant
43 shall be liable for all reasonable costs of providing care for, and the
44 disposal of, the animal.
- 45 g. Upon final disposition of the animal cruelty violation, if the
46 defendant takes custody of the animal from the custodial animal care
47 agency, any unexpended amount paid to the custodial animal care
48 agency by the defendant shall be returned to the defendant.

1 h. Upon final disposition of the animal cruelty violation, the
2 defendant shall remain liable for all reasonable costs of care for the
3 animal as set forth in the custodial care notice or, if the reasonableness
4 of those costs was contested, the reasonable costs of care for the
5 animal as determined by the court. Any outstanding charges constitute
6 a lien on the animal, and, notwithstanding a court order authorizing the
7 defendant to resume care and control of the animal, the custodial
8 animal care agency shall not be required to release the animal until
9 such time that the outstanding charges are paid in full. The agency
10 may invoke the procedures in this act to assume ownership of the
11 animal if such charges are not paid within the time allotted.

12 i. For the purposes of this section:

13 "Animal care facility" means a shelter, pound, kennel, an animal
14 rescue organization facility as defined in section 1 of P.L.1941, c.151
15 (C.4:19-15.1), or a humane society or other organization that has
16 temporary custody of the animal.

17 "Custodial animal care agency" means the shelter, pound, kennel,
18 or animal care facility at which an animal is impounded, pending
19 disposition of an alleged animal cruelty violation and ownership of the
20 animal.

21 "Domestic companion animal" means any animal commonly
22 referred to as a pet that was bought, bred, raised or otherwise acquired,
23 in accordance with local ordinances and State and federal law, for the
24 primary purpose of providing companionship to the owner, rather than
25 for business or agricultural purposes. "Domestic companion animal"
26 shall not include "domestic livestock" as defined in subsection c. of
27 section 1 of P.L.1995, c.311 (C.4:22-16.1).

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

36
37 2. This act shall take effect immediately.
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40 STATEMENT
41

42 This bill provides for the cost of care for domestic companion
43 animals involved in animal cruelty violations, and establishes a
44 procedure, when the owner of the domestic companion animal is the
45 alleged violator, for the owner of the animal to pay for the cost of
46 care of the animal. The bill defines "domestic companion animal"
47 as any animal commonly referred to as a pet that was bought, bred,
48 raised or otherwise acquired, in accordance with local ordinances

1 and State and federal law, for the primary purpose of providing
2 companionship to the owner, rather than for business or agricultural
3 purposes. However, domestic companion animal does not include
4 domestic livestock.

5 Specifically, the bill requires:

6 1) the custodial animal care agency at which the animal is
7 impounded to issue, no later than seven days after the animal has
8 been impounded, a custodial care notice with the information
9 required in subsection a. of section 1 of the bill, including an
10 itemized accounting of the actual costs of caring for the animal
11 during the first seven days of impoundment, and the projected
12 reasonable costs of caring for the animal for each 30-day period the
13 animal may be impounded after the first seven days; and

14 2) the defendant to pay the amounts set forth in the notice,
15 within 15 business days after receipt thereof, or to request a court
16 hearing, within 10 business days after receipt of the custodial care
17 notice, to contest the reasonableness of the amounts itemized
18 therein.

19 Every 20 days after the defendant's receipt of the initial notice,
20 the custodial animal care agency would be required to issue an
21 additional custodial care notice in the same manner required for the
22 initial custodial care notice, in order to provide the defendant with
23 notice of the projected reasonable costs of caring for the animal for
24 the next 30-day period. The defendant would be required to pay the
25 projected costs within 10 business days after receipt of any such
26 supplemental notice.

27 The bill prohibits any impounded animal from being sold,
28 euthanized, offered for adoption, or otherwise disposed of by the
29 custodial animal care agency if the defendant pays for the requisite
30 care expenses, or if a court hearing contesting these expenses is
31 pending, except when a licensed veterinarian determines that the
32 animal is experiencing severe pain and is beyond any reasonable
33 hope of recovery. In such a case, the bill allows for the
34 immediate euthanizing of the animal. The bill provides that the
35 defendant would be liable, until the animal is euthanized, for any
36 reasonable costs associated with the animal's care, and that, if the
37 animal is euthanized, the defendant would also be liable for all costs
38 associated with the disposal of the animal. When an animal is
39 reclaimed by a defendant who has complied with the cost of care
40 requirements pursuant to the bill, the custodial animal care agency
41 would be required to reimburse any amount paid by the defendant
42 which remains unexpended.

43 The bill directs the court to establish any unpaid care expenses as
44 a lien on the animal, and it prohibits the return of the animal to the
45 defendant until the lien is paid. The bill further provides that costs
46 of care would continue to accrue until the defendant pays the lien in
47 full and removes the animal from the custodial animal care agency.

1 Pursuant to the bill's provisions, an impounded animal would be
2 deemed abandoned, and the custodial animal care agency would
3 assume ownership of the animal, by operation of law, on the 16th
4 business day after the defendant's receipt of a custodial care notice,
5 if:

6 1) the custodial animal care agency has proof of service
7 showing that the custodial care notice was served on the defendant
8 named therein;

9 2) the defendant named in the custodial care notice has failed to
10 request a hearing to contest the amounts specified in the notice
11 within the time allotted for such a request, or a court has
12 determined, following a hearing, that the amounts specified in the
13 notice are reasonable; and

14 3) the defendant has failed to pay any of the costs that are
15 identified in the custodial care notice, or that have otherwise been
16 established by the court, within the timeframes established for
17 payment thereof.

18 Upon assumption of ownership of the animal, the custodial
19 animal care agency would be authorized to offer the animal for
20 adoption, or to otherwise address disposition of the animal as
21 authorized pursuant to section 16 of P.L.1941, c.151 (C.4:19-
22 15.16), the State law that provides for disposition of an animal held
23 in a shelter, pound, or kennel operating as a shelter or pound.