

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 2409** Session of
2012

INTRODUCED BY ELLIS, MAHER, STEPHENS, BAKER, CALTAGIRONE,
CHRISTIANA, CLYMER, D. COSTA, P. COSTA, DeLUCA, DIGIROLAMO,
J. EVANS, GEIST, GERGELY, GIBBONS, GOODMAN, HESS, KAUFFMAN,
KILLION, MAHONEY, MANN, MARSHALL, MARSICO, MILLARD, MILNE,
MOUL, MUNDY, MUSTIO, O'NEILL, PEIFER, PICKETT, QUIGLEY, ROCK,
ROSS, SABATINA, STABACK, SWANGER, TOBASH, WATERS AND WATSON,
SEPTEMBER 21, 2012

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 2, 2012

AN ACT

1 Providing for actions for costs of care of seized animals.

2 The General Assembly finds and declares that:

3 (1) Owners of animals have a duty of care.

4 (2) Because of this duty of care, owners of animals are
5 responsible for the costs of caring for those animals and
6 that responsibility continues if those animals are duly
7 seized.

8 (3) The General Assembly has enacted 18 Pa.C.S. § 5511
9 (relating to cruelty to animals) relating to cruelty to
10 animals which can lead to seizure of animals.

11 (4) Neither 18 Pa.C.S. § 5511 nor this act pertains to
12 activity undertaken in normal agricultural operations.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

1 Section 1. Short title.

2 This act shall be known and may be cited as the Costs of Care
3 of Seized Animals Act.

4 Section 2. Definitions.

5 The following words and phrases when used in this act shall
6 have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Costs order." A court order to pay reasonable costs of care
9 issued under section 5(e).

10 "Defendant." A person charged with a violation of 18 Pa.C.S.
11 § 5511 (relating to cruelty to animals).

12 "Normal agricultural operation." As defined under 18 Pa.C.S.
13 § 5511(q) (relating to cruelty to animals).

14 "Petition." A petition for reasonable costs of care for any
15 animal seized under 18 Pa.C.S. § 5511 (relating to cruelty to
16 animals).

17 "Petitioner." A person or entity that files a petition under
18 this act.

19 ~~"Reasonable costs of care." The reasonable costs of caring~~ ←

20 "REASONABLE COSTS OF CARE." AS FOLLOWS: ←

21 (1) THE REASONABLE COSTS OF CARING for seized animals,
22 including the provision of food, water, shelter and medical
23 care, beginning at the date of the seizure and continuing
24 until the earlier of one of the following:

25 ~~(1) At least 30 days following a hearing on a petition~~ ←

26 (I) AT LEAST 30 DAYS FOLLOWING A HEARING ON A ←
27 PETITION for costs of care.

28 ~~(2) The seized animals are no longer under the control~~ ←

29 (II) THE SEIZED ANIMALS ARE NO LONGER UNDER THE ←
30 CONTROL of the petitioner.

1 ~~(3) The owner and defendant have relinquished all~~ ←

2 (III) THE OWNER AND DEFENDANT HAVE RELINQUISHED ALL ←
3 interests in the seized animals.

4 (2) REASONABLE COSTS OF CARE SHALL BE LIMITED TO \$15 PER ←
5 DAY PER ANIMAL, IN ADDITION TO NECESSARY MEDICAL CARE, AS
6 DETERMINED BY A LICENSED VETERINARIAN AND DOCUMENTED BY
7 INVOICES.

8 "Respondent." Any of the following:

9 (1) A defendant.

10 (2) An owner of a seized animal.

11 "Society or association." A nonprofit society or association
12 duly incorporated under 15 Pa.C.S. Ch. 53 Subch. A (relating to
13 incorporation generally) for the purpose of the prevention of
14 cruelty to animals.

15 Section 3. Petition for reasonable costs of care.

16 (a) Filing.--If animals are seized under 18 Pa.C.S. § 5511
17 (relating to cruelty to animals), a petition may be filed, with
18 the same magisterial district court where related criminal
19 charges have been filed, by any of the following:

20 (1) A county or municipal official.

21 (2) A society or association or other incorporated
22 nonprofit organization providing care for the animals.

23 (b) Time.--A petition may not be filed later than the entry
24 of final judgment on the related criminal charge for a violation
25 of 18 Pa.C.S. § 5511.

26 Section 4. Respondents.

27 (a) Defendant.--Not later than five days after filing a
28 petition under section 3, the petitioner shall serve the
29 petition on the defendant by personal service or by registered
30 mail to any of the following:

- 1 (1) The defendant's mailing address.
- 2 (2) The place of business of the defendant's counsel.
- 3 (3) The detention facility where the defendant is
- 4 incarcerated.

5 (b) Owner.--The petitioner shall serve the petition on the

6 owner of a seized animal if all of the following apply:

7 (1) The petitioner is aware that the defendant is not

8 the owner of the seized animals.

9 (2) The petitioner is aware of the owner's location.

10 Section 5. Hearing.

11 (a) Date.--Upon receipt of a petition, the court shall set a

12 date for a hearing to determine the responsibility of a

13 respondent for reasonable costs of care.

14 (b) Time.--A hearing under subsection (a) shall be scheduled

15 not less than seven days but not more than 14 days from the

16 service of the petition on the respondent.

17 (c) Evidence.--At the hearing, the petitioner shall present

18 evidence that demonstrates the amount of reasonable costs of

19 care for the seized animals and that the seizure was warranted.

20 (d) Objection.--All respondents shall have the opportunity

21 at the hearing to object to the petition.

22 (e) Costs order.--

23 (1) Not later than five days after the commencement of

24 the hearing, the court shall issue an order granting or

25 denying the petition. If the court grants the petition, the

26 order shall include the amount of reasonable costs of care to

27 be paid by the respondent.

28 (2) The costs order shall include a schedule of monthly

29 payments for costs of care to be paid by the respondent

30 beginning 30 days after the initial payment designated in the

1 order under paragraph (1). Payments shall continue until
2 termination under section 7. The respondents' ability to pay
3 shall not affect the court's determination as to the amount
4 of the reasonable costs of care.

5 Section 6. Payment of reasonable expenses.

6 (a) General rule.--Not later than five days after service of
7 the costs order, the respondent shall deposit the ordered amount
8 with the clerk of courts. The respondent shall make payments
9 thereafter under the costs order until termination under section
10 7.

11 (b) Nonpayment.--If a respondent subject to a costs order
12 fails to timely pay any of the amounts ordered, the following
13 shall apply:

14 (1) A seized animal for which reasonable costs of care
15 were ordered shall be automatically forfeited, by operation
16 of law, to the petitioner.

17 (2) The petitioner shall obtain all rights and
18 privileges in and over the animals.

19 (c) Adjustment.--The court, upon motion by a petitioner or
20 respondent and after a hearing consistent with section 5, may
21 adjust the amount of reasonable costs of care.

22 (d) Disbursement.--After deposit of the funds under
23 subsection (a), the clerk of the courts shall disburse the funds
24 to the petitioner. Disbursement of the funds shall not prevent
25 the petitioner from doing any of the following:

26 (1) Providing necessary medical care, including
27 euthanizing any seized animal. The petitioner may euthanize a
28 seized animal if the petitioner obtains a written opinion
29 from a licensed veterinarian who states it is necessary to
30 alleviate the animal's suffering.

1 (2) Transferring a seized animal if any of the following
2 apply:

3 (i) The court orders the transfer.

4 (ii) The defendant or owner of the animal surrenders
5 all rights to the animal.

6 Section 7. Termination of costs order.

7 (a) Time.--A costs order shall be terminated upon the
8 occurrence of any of the following:

9 (1) The issuance of a final judgment on the criminal
10 charge for a violation of 18 Pa.C.S. § 5511 (relating to
11 cruelty to animals).

12 (2) The defendant or owner of the animals surrendering
13 all rights to the animals.

14 (3) The seized animals being no longer under the control
15 of the petitioner.

16 (b) Remittance.--No earlier than the issuance of the final
17 order on the related criminal charge for a violation of 18
18 Pa.C.S. § 5511, any unused portion of reasonable costs of care
19 remaining after full payment in accordance with a costs order
20 shall be remitted to the defendant or owner.

21 Section 8. Examination.

22 Notwithstanding any other rights under 18 Pa.C.S. § 5511
23 (relating to cruelty to animals) and not later than the
24 commencement of the hearing under section 5, the defendant or
25 owner of the animal shall have one opportunity to examine the
26 seized animal for the purposes of preserving evidence. The
27 examination shall be completed in the presence of a law
28 enforcement officer.

29 Section 9. Immunity.

30 A petitioner shall be immune from civil liability for damages

1 alleged by a defendant or owner concerning the care provided by
2 the petitioner.

3 Section 10. Applicability.

4 Nothing in this act shall apply to animals used for
5 activities undertaken in a normal agricultural operation.

6 Section 30. Effective date.

7 This act shall take effect in 60 days.