

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 82 Session of
2013

INTRODUCED BY ELLIS, HAGGERTY, K. BOYLE, KAUFFMAN, V. BROWN,
STEPHENS, SCHLOSSBERG, LONGIETTI, DAVIS, KORTZ, O'NEILL,
D. COSTA, C. HARRIS, HESS, READSHAW, ROZZI, RAVENSTAHL,
BURNS, SIMMONS, SWANGER, GOODMAN, CALTAGIRONE, ROSS, MURT,
MATZIE, FARRY AND SIMS, JANUARY 10, 2013

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,
JUNE 11, 2013

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 OPERATION. <--

14 The General Assembly of the Commonwealth of Pennsylvania
15 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 "OWNER." A PERSON WHO CAN PROVE LEGAL TITLE TO OR OWNERSHIP <--
15 OF THE ANIMAL AT ISSUE.

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

19 "Petitioner." A person or entity that files a petition under
20 this act.

21 "Reasonable costs of care." As follows:

22 (1) The reasonable costs of caring for seized animals,
23 including the provision of food, water, shelter and medical
24 care, beginning at the date of the seizure and continuing
25 until the earlier of one of the following:

26 (i) At least 30 days following a hearing on a
27 petition for costs of care.

28 (ii) The seized animals are no longer under the
29 control of the petitioner.

30 (iii) The owner and defendant have relinquished all

1 interests in the seized animals.

2 (2) Reasonable costs of care shall be limited to \$15 per
3 day per animal, in addition to necessary medical care, as
4 determined by a licensed veterinarian and documented by
5 invoices.

6 "Respondent." Any of the following:

7 (1) A defendant.

8 (2) An owner of a seized animal.

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

13 Section 3. Petition for reasonable costs of care.

14 (a) Filing.--If animals are seized under 18 Pa.C.S. § 5511
15 (relating to cruelty to animals), a petition may be filed, with
16 the ~~same magisterial district court~~ COURT OF COMMON PLEAS IN THE <--
17 COUNTY where related criminal charges have been filed, by any of
18 the following:

19 (1) A county or municipal official.

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

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

25 Section 4. Respondents.

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

30 (1) The defendant's mailing address.

1 (2) The place of business of the defendant's counsel.

2 (3) The detention facility where the defendant is
3 incarcerated.

4 (b) Owner.--The petitioner shall serve the petition on the
5 owner of a seized animal if all of the following apply:

6 (1) The petitioner is aware that the defendant is not
7 the owner of the seized animals.

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

9 Section 5. Hearing.

10 (a) Date.--Upon receipt of a petition, the court shall set a
11 date for a hearing to determine the responsibility of a
12 respondent for reasonable costs of care.

13 (b) Time.--A hearing under subsection (a) shall be scheduled
14 not less than ~~seven~~ 14 days but not more than ~~14~~ 21 days from <--
15 the service of the petition on the respondent. THE PETITIONER <--
16 SHALL SERVE NOTICE OF THE HEARING DATE UPON THE RESPONDENT AND,
17 IF REQUIRED TO BE SERVED UNDER SECTION 4(B), THE OWNER.

18 ~~(c) Evidence.--At the hearing, the petitioner shall present <--~~
19 ~~evidence that demonstrates the amount of reasonable costs of~~
20 ~~care for the seized animals and that the seizure was warranted.~~

21 (C) EVIDENCE.--AT THE HEARING, THE PETITIONER SHALL PRESENT <--
22 EVIDENCE THAT DEMONSTRATES:

23 (1) THE AMOUNT OF REASONABLE COSTS OF CARE FOR THE
24 SEIZED ANIMAL; AND

25 (2) THAT THE SEIZURE WAS WARRANTED.

26 (d) Objection.--All respondents shall have the opportunity
27 at the hearing to object to the petition.

28 (e) Costs order.--

29 (1) Not later than five days after the commencement of
30 the hearing, the court shall issue an order granting or

1 denying the petition. If the court grants the petition, the
2 order shall include ANY FILING FEES PAID BY THE PETITIONER TO <--
3 FILE THE PETITION UNDER SECTION 3 AND the amount of
4 reasonable costs of care ~~to~~, BOTH OF WHICH SHALL be paid by <--
5 the respondent.

6 (2) The costs order shall include a schedule of monthly
7 payments for costs of care to be paid by the respondent
8 beginning 30 days after the initial payment designated in the
9 order under paragraph (1). Payments shall continue until
10 termination under section 7. The respondents' ability to pay
11 shall not affect the court's determination as to the amount
12 of the reasonable costs of care.

13 Section 6. Payment of reasonable ~~expenses~~ COSTS OF CARE. <--

14 (a) General rule.--Not later than ~~five~~ SEVEN days after <--
15 service of the costs order, the respondent shall ~~deposit the~~ <--
16 ~~ordered amount with the clerk of courts~~ MAKE PAYMENTS TO THE <--
17 PETITIONER IN ACCORDANCE WITH THE COSTS ORDER. The respondent
18 shall make payments thereafter under the costs order until
19 termination under section 7.

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

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

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

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

1 (d) ~~Disbursement. After deposit of the funds under~~ <--
2 ~~subsection (a), the clerk of the courts shall disburse the funds~~
3 ~~to the petitioner. Disbursement of the funds~~ PAYMENT.--PAYMENT <--

4 OF REASONABLE COSTS OF CARE UNDER SUBSECTION (A) shall not
5 prevent the petitioner from doing any of the following:

6 (1) Providing necessary medical care, including
7 euthanizing any seized animal. The petitioner may euthanize a
8 seized animal if the petitioner obtains a written opinion
9 from a licensed veterinarian who states it is necessary to
10 alleviate the animal's suffering.

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

13 (i) The court orders the transfer.

14 (ii) The defendant or owner of the animal surrenders
15 all rights to the animal.

16 (E) REPRODUCTIVE HEALTH.--A PETITIONER MAY NOT SPAY, NEUTER <--
17 OR OTHERWISE AFFECT THE REPRODUCTIVE HEALTH OF THE SEIZED ANIMAL
18 UNDER ANY CIRCUMSTANCES UNLESS THE RESPONDENT SURRENDERS ALL
19 RIGHTS OF OWNERSHIP OF THE ANIMAL IN WRITING, FORFEITS THE
20 ANIMAL PURSUANT TO SUBSECTION (B), CONSENTS TO THE SURGERY IN
21 WRITING OR IF THE PETITIONER OBTAINS A WRITTEN OPINION FROM A
22 LICENSED VETERINARIAN WHO STATES THAT THE PROCEDURE IS MEDICALLY
23 NECESSARY FOR THE HEALTH OF THE ANIMAL.

24 (F) UNNECESSARY MEDICAL CARE.--UNDER NO CIRCUMSTANCES MAY A
25 PETITIONER BE REIMBURSED FOR COSTS OF CARE FOR WHICH THE
26 RESPONDENT PROVIDES MEDICAL RECORDS, SIGNED BY A LICENSED
27 VETERINARIAN, THAT SHOW THAT SUCH COSTS ARE UNNECESSARY.
28 Section 7. Termination of costs order.

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

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

4 (2) The defendant or owner of the animals surrendering
5 all rights to the animals.

6 (3) The seized animals being no longer under the control
7 of the petitioner.

8 ~~(b) Remittance. No earlier than the issuance of the final~~ <--

9 (B) REMITTANCE.--AS FOLLOWS: <--

10 (1) NO EARLIER THAN THE ISSUANCE OF THE FINAL order on
11 the related criminal charge for a violation of 18 Pa.C.S. §
12 5511, any unused portion of reasonable costs of care
13 remaining after full payment in accordance with a costs order
14 shall be remitted to the defendant or owner.

15 (2) IF THE RELATED CRIMINAL CHARGE FOR A VIOLATION OF 18 <--
16 PA.C.S. § 5511 (RELATING TO CRUELTY TO ANIMALS) DOES NOT
17 RESULT IN A CONVICTION, WITHIN 30 DAYS ALL REASONABLE COSTS
18 OF CARE PAID UNDER SECTION 6 SHALL BE RETURNED TO THE PERSON
19 WHO PAID THE COSTS OF CARE OF THE SEIZED ANIMAL.

20 Section 8. Examination.

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

28 Section 9. Immunity.

29 A petitioner shall be immune from civil liability for damages
30 alleged by a defendant or owner concerning the care provided by

1 the petitioner, EXCEPT FOR INTENTIONAL MISCONDUCT OR GROSS <--
2 NEGLIGENCE RESULTING IN THE DEATH OF AN ANIMAL.

3 Section 10. Applicability.

4 (A) NORMAL AGRICULTURAL OPERATION.--Nothing in this act <--
5 shall apply to animals used for activities undertaken in a
6 normal agricultural operation.

7 (B) INDIGENCY.--IN A CASE UNDER 18 PA.C.S. § 5511 (RELATING <--
8 TO CRUELTY TO ANIMALS) IN WHICH ONLY ONE ANIMAL WAS SEIZED FROM
9 THE RESPONDENT AND THE RESPONDENT IS ABLE TO PROVE INDIGENCY AND
10 THE INABILITY TO PAY THE REASONABLE COSTS OF CARE ASSESSED UNDER
11 THIS ACT BY THE COURT FOR THAT ANIMAL, THE COURT IN ITS
12 DISCRETION MAY WAIVE THE REQUIREMENT FOR THE RESPONDENT TO PAY
13 THE COSTS OF CARE FOR THAT ANIMAL. A RESPONDENT SEEKING A WAIVER
14 UNDER THIS SUBSECTION SHALL SUBMIT AN AFFIDAVIT IN THE FORM
15 PROVIDED FOR IN RULE 240(H) OF THE PENNSYLVANIA RULES OF CIVIL
16 PROCEDURE.

17 Section 30. Effective date.

18 This act shall take effect in 60 days.