

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 REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 24, 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 for seized animals, including the provision of food, water,
21 shelter and medical care, beginning at the date of the seizure
22 and continuing until the earlier of one of the following:

23 (1) At least 30 days following a hearing on a petition
24 for costs of care.

25 (2) The seized animals are no longer under the control
26 of the petitioner.

27 (3) The owner and defendant have relinquished all
28 interests in the seized animals.

29 "Respondent." Any of the following:

30 (1) A defendant.

1 (2) An owner of a seized animal.

2 "Society or association." A nonprofit society or association
3 duly incorporated under 15 Pa.C.S. Ch. 53 Subch. A (relating to
4 incorporation generally) for the purpose of the prevention of
5 cruelty to animals.

6 Section 3. Petition for reasonable costs of care.

7 (a) Filing.--If animals are seized under 18 Pa.C.S. § 5511
8 (relating to cruelty to animals), a petition may be filed, with ←
9 the SAME magisterial district court ~~if~~ WHERE related criminal ←
10 charges have been filed, by any of the following: ←

11 (1) A county or municipal official.

12 (2) A society or association or other ~~similar~~ ←
13 incorporated nonprofit organization providing care for the
14 animals.

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

18 Section 4. Respondents.

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

23 (1) The defendant's mailing address.

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

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

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

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

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

2 Section 5. Hearing.

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

6 (b) Time.--A hearing under subsection (a) shall be scheduled
7 not less than seven days but not more than 14 days from the
8 service of the petition on the respondent.

9 (c) Evidence.--At the hearing, the petitioner shall present
10 evidence that demonstrates the amount of reasonable costs of
11 care for the seized animals and that the seizure was warranted.

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

14 (e) Costs order.--

15 (1) Not later than five days after the commencement of
16 the hearing, the court shall issue an order granting or
17 ~~changing~~ DENYING the petition. If the court grants the
18 petition, the order shall include the amount of reasonable
19 costs of care to be paid by the respondent.

20 (2) The costs order shall include a schedule of monthly
21 payments for costs of care to be paid by the respondent
22 beginning 30 days after the initial payment designated in the
23 order under paragraph (1). Payments shall continue until
24 termination under section 7. The respondents' ability to pay
25 shall not affect the court's determination as to the amount
26 of the reasonable costs of care.

27 Section 6. Payment of reasonable expenses.

28 (a) General rule.--Not later than five days after service of
29 the costs order, the respondent shall deposit the ordered amount
30 with the clerk of courts. The respondent shall make payments

1 thereafter under the costs order until termination under section
2 7.

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

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

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

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

14 (d) Disbursement.--After deposit of the funds under
15 subsection (a), the clerk of the courts shall disburse the funds
16 to the petitioner. Disbursement of the funds shall not prevent
17 the petitioner from doing any of the following:

18 (1) Providing necessary medical care, including
19 euthanizing any seized animal. The petitioner may euthanize a
20 seized animal if the petitioner obtains a written opinion
21 from a licensed veterinarian who states it is necessary to
22 alleviate the animal's suffering.

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

25 (i) The court orders the transfer.

26 (ii) The defendant or owner of the animal surrenders
27 all rights to the animal.

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 order on the related criminal charge for a violation of 18
10 Pa.C.S. § 5511, any unused portion of reasonable costs of care
11 remaining after full payment in accordance with a costs order
12 shall be remitted to the defendant or owner.

13 Section 8. Examination.

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

21 Section 9. Immunity.

22 A petitioner shall be immune from civil liability for damages
23 alleged by a defendant or owner concerning the care provided by
24 the petitioner.

25 Section 10. Applicability.

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

28 Section 30. Effective date.

29 This act shall take effect in 60 days.