

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,
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BURNS, SIMMONS, SWANGER, GOODMAN, CALTAGIRONE, ROSS, MURT,
MATZIE, FARRY AND SIMS, JANUARY 10, 2013

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, JUNE 25, 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~~ UNDER SECTION 5(E) TO <--
9 PAY FILING FEES AND reasonable costs of care ~~issued under~~ <--
10 ~~section 5(e)~~.

11 "Defendant." A person charged with a violation of 18 Pa.C.S.
12 § 5511 (relating to cruelty to animals).

13 "Normal agricultural operation." As defined under 18 Pa.C.S.
14 § 5511(q) (relating to cruelty to animals).

15 "OWNER." ~~A PERSON WHO CAN PROVE LEGAL TITLE TO OR OWNERSHIP~~ <--
16 ~~OF THE ANIMAL AT ISSUE~~ IN RELATION TO AN ANIMAL SEIZED UNDER 18 <--
17 PA.C.S. § 5511 (RELATING TO CRUELTY TO ANIMALS), A PERSON WHO
18 CAN PROVE LEGAL TITLE TO OR OWNERSHIP OF AN ANIMAL AT ISSUE ON
19 THE DATE OF THE SEIZURE.

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

23 "Petitioner." A person or entity that files a petition under
24 this act.

25 "Reasonable costs of care." As follows:

26 (1) The reasonable costs of caring for seized animals,
27 including the provision of food, water, shelter and medical
28 care, beginning at the date of the seizure and continuing
29 until the earlier of one of the following:

30 (i) At least 30 days following a hearing on a

1 petition for costs of care.

2 (ii) The seized animals are no longer under the
3 control of the petitioner.

4 (iii) The owner and defendant have relinquished all
5 interests in the seized animals.

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

10 ~~"Respondent." Any of the following:~~ <--

11 ~~(1) A defendant.~~

12 ~~(2) An owner of a seized animal.~~

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

17 Section 3. Petition for reasonable costs of care.

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

23 (1) A county or municipal official.

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

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

29 Section 4. ~~Respondents~~ SERVICE OF PETITION. <--

30 (a) Defendant.--Not later than ~~five~~ SEVEN days after filing <--

1 a petition under section 3, the petitioner shall serve the
2 petition on the defendant by personal service or by registered
3 mail to any of the following:

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

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

- 10 (1) The petitioner is aware that the defendant is not
11 the owner of the seized animals.
- 12 (2) The petitioner is aware of the owner's location.

13 Section 5. Hearing.

14 (a) Date.--Upon receipt of a petition, the court shall set a
15 date for a hearing to determine the responsibility of a
16 ~~respondent~~ DEFENDANT for reasonable costs of care. <--

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

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

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

- 28 (1) THE AMOUNT OF REASONABLE COSTS OF CARE FOR THE
29 SEIZED ANIMAL; ~~AND~~ <--
- 30 (2) THAT THE SEIZURE WAS WARRANTED; ~~AND~~ <--

1 (3) IF THE OWNER IS REQUIRED TO BE SERVED UNDER SECTION
2 4(B), THAT A COPY OF THE PETITION HAS BEEN MAILED TO THE
3 OWNER'S LAST KNOWN ADDRESS.

4 (d) Objection.--~~All respondents~~ THE DEFENDANT AND, IF <--
5 REQUIRED TO BE SERVED UNDER SECTION 4(B), OWNER shall have the
6 opportunity at the hearing to object to the petition.

7 (e) Costs order.--

8 (1) Not later than five days after the commencement of
9 the hearing, the court shall issue an order granting or
10 denying the petition. If the court grants the petition, the
11 order shall include ANY FILING FEES PAID BY THE PETITIONER TO <--
12 FILE THE PETITION UNDER SECTION 3 AND the amount of
13 reasonable costs of care ~~to~~, BOTH OF WHICH SHALL be paid by <--
14 the ~~respondent~~ DEFENDANT. <--

15 (2) The costs order shall include a schedule of monthly
16 payments for costs of care to be paid by the ~~respondent~~ <--
17 DEFENDANT beginning 30 days after the initial payment <--
18 designated in the order under paragraph (1). Payments shall
19 continue until termination under section 7. The ~~respondents'~~ <--
20 DEFENDANT'S ability to pay shall not affect the court's <--
21 determination as to the amount of the reasonable costs of
22 care.

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

24 (a) General rule.--Not later than ~~five~~ SEVEN days after <--
25 service of the costs order, the ~~respondent~~ DEFENDANT shall <--
26 ~~deposit the ordered amount with the clerk of courts~~ MAKE <--
27 PAYMENTS TO THE PETITIONER IN ACCORDANCE WITH THE COSTS ORDER.
28 The ~~respondent~~ DEFENDANT shall make payments thereafter under <--
29 the costs order until termination under section 7.

30 (b) Nonpayment.--If a ~~respondent~~ DEFENDANT subject to a <--

1 costs order fails to timely pay any of the amounts ordered, the
2 following shall apply:

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

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

8 (3) IF ANY OWNER WAS REQUIRED TO BE SERVED UNDER SECTION <--
9 4(B) AND THE DEFENDANT WAS ORDERED TO PAY COSTS UNDER SECTION
10 5(E), THE PETITIONER SHALL PROVIDE THE OWNER WITH NOTICE OF
11 THE NONPAYMENT BY CERTIFIED MAIL AT THE OWNER'S LAST KNOWN
12 ADDRESS. THE NOTICE SHALL INFORM THE OWNER THAT THE
13 FORFEITURE DESCRIBED IN THIS SECTION SHALL OCCUR WITHOUT
14 FURTHER NOTICE IF THE PAYMENT DEFAULT IS NOT REMEDIED IN FULL
15 WITHIN 10 DAYS OF THE MAILING OF THE NOTICE. IF THE OWNER
16 PAYS THE AMOUNT PAST DUE, THE OBLIGATION TO PAY COSTS UNDER
17 SECTION 5(E) SHALL BE CONSIDERED A JOINT OBLIGATION OF THE
18 DEFENDANT AND THE OWNER AND NO FURTHER NOTICE OF ANY OTHER
19 DEFAULT SHALL BE REQUIRED PRIOR TO FORFEITURE.

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

23 (d) ~~Disbursement. After deposit of the funds under~~ <--
24 ~~subsection (a), the clerk of the courts shall disburse the funds~~
25 ~~to the petitioner. Disbursement of the funds~~ PAYMENT.--PAYMENT <--
26 OF REASONABLE COSTS OF CARE UNDER SUBSECTION (A) shall not
27 prevent the petitioner from doing any of the following:

28 (1) Providing necessary medical care, including
29 euthanizing any seized animal. The petitioner may euthanize a
30 seized animal if the petitioner obtains a written opinion

1 from a licensed veterinarian who states it is necessary to
2 alleviate the animal's suffering.

3 (2) Transferring TO ANOTHER FACILITY OR CARETAKER a <--
4 seized animal if any of the following apply:

5 (i) The court orders the transfer.

6 (ii) The ~~defendant~~ or owner of the animal surrenders <--
7 all rights to the animal.

8 (3) FILING WITH THE COURT THAT ENTERED THE COSTS ORDER A <--
9 REQUEST SEEKING PERMISSION TO RETURN A SEIZED ANIMAL TO AN
10 OWNER WHO IS NOT CHARGED UNDER 18 PA.C.S. § 5511 (RELATING TO
11 CRUELTY TO ANIMALS).

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

20 (F) UNNECESSARY MEDICAL CARE.--UNDER NO CIRCUMSTANCES MAY A
21 PETITIONER BE REIMBURSED FOR COSTS OF CARE FOR WHICH THE
22 ~~RESPONDENT~~ DEFENDANT OR OWNER PROVIDES MEDICAL RECORDS, SIGNED <--
23 BY A LICENSED VETERINARIAN, THAT SHOW THAT SUCH COSTS ARE
24 UNNECESSARY.

25 Section 7. Termination of costs order.

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

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

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

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

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

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

7 (1) NO EARLIER THAN THE ISSUANCE OF THE FINAL order on
8 the related criminal charge for a violation of 18 Pa.C.S. §
9 5511, any unused portion of reasonable costs of care
10 remaining after full payment in accordance with a costs order
11 shall be remitted to the ~~defendant or owner~~ PERSON WHO PAID <--
12 THE COSTS OF CARE OF THE SEIZED ANIMAL.

13 (2) IF ~~THE~~ NO RELATED CRIMINAL CHARGE FOR A VIOLATION OF <--
14 18 PA.C.S. § 5511 ~~(RELATING TO CRUELTY TO ANIMALS) DOES NOT~~ <--
15 ~~RESULT IN A CONVICTION, WITHIN 30 DAYS ALL REASONABLE COSTS~~
16 ~~OF CARE PAID UNDER SECTION 6 SHALL BE RETURNED TO THE PERSON~~
17 ~~WHO PAID THE COSTS OF CARE OF THE SEIZED ANIMAL RESULTS IN~~ <--
18 ANY CONVICTION AND, IF ALL COSTS ORDERED TO BE PAID UNDER
19 SECTION 5(E) AND 6 HAVE BEEN TIMELY PAID, THE OWNER SHALL
20 HAVE THE RIGHT TO REPOSSESSION OF THE ANIMAL AND TO A RETURN
21 OF ALL REASONABLE COSTS OF CARE.

22 Section 8. Examination.

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

30 Section 9. Immunity.

1 A petitioner shall be immune from civil liability for damages
2 alleged by a defendant or owner concerning the care provided by
3 the petitioner, EXCEPT FOR INTENTIONAL MISCONDUCT OR GROSS <--
4 NEGLIGENCE RESULTING IN THE DEATH OF AN ANIMAL.

5 Section 10. Applicability.

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

9 ~~(B) INDIGENCY. IN A CASE UNDER 18 PA.C.S. § 5511~~ <--
10 ~~(RELATING~~

11 (B) INDIGENCY.-- <--

12 (1) IN A CASE UNDER 18 PA.C.S. § 5511 (RELATING TO
13 CRUELTY TO ANIMALS) IN WHICH ONLY ONE ANIMAL WAS SEIZED FROM
14 THE ~~RESPONDENT~~ DEFENDANT AND THE ~~RESPONDENT~~ DEFENDANT IS ABLE <--
15 TO PROVE INDIGENCY AND THE INABILITY TO PAY THE REASONABLE
16 COSTS OF CARE ASSESSED UNDER THIS ACT BY THE COURT FOR THAT
17 ANIMAL, THE COURT IN ITS DISCRETION MAY WAIVE THE REQUIREMENT <--
18 FOR THE ~~RESPONDENT TO PAY THE COSTS OF CARE FOR THAT ANIMAL.~~ <--
19 ~~A RESPONDENT SEEKING A WAIVER~~ DEFENDANT TO PAY THE COSTS OF <--
20 CARE FOR THAT ANIMAL.

21 (2) A DEFENDANT SEEKING A WAIVER UNDER THIS SUBSECTION <--
22 ~~SHALL~~ MUST SUBMIT AN AFFIDAVIT IN THE FORM PROVIDED FOR IN <--
23 RULE 240(H) OF THE PENNSYLVANIA RULES OF CIVIL PROCEDURE.

24 Section ~~30~~ 11. Effective date. <--

25 This act shall take effect in 60 days.