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FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: Yes

Committee Meeting of SENATE ENVIRONMENT AND ENERGY COMMITTEE: "The Committee will meet to hear testimony from invited guests on what actions the State should take to achieve net-zero greenhouse gas emissions by 2050, and the cost of those actions to ratepayers" March 14, 2022 <https://hdl.handle.net/10929/83583>

NEWSPAPER ARTICLES: No

CL/JA

§§2-4
C.4:22-46.1
to 4:22-46.3
§2
Note to §5
§5
C.4:22-26.2

P.L. 2023, CHAPTER 129, *approved July 26, 2023*
Senate, No. 981 (*Second Reprint*)

1 AN ACT concerning certain animals involved in animal cruelty
2 violations, supplementing Title 4 of the Revised Statutes, and
3 amending P.L.2017, c.189.

4

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

7

8 ¹**[**1. Section 3 of P.L.2017, c.189 (C.4:22-17.3) is amended to
9 read as follows:

10 3. a. It is unlawful for any person to cruelly restrain a dog.

11 b. A person cruelly restrains a dog if the person tethers a dog:

12 (1) which is a nursing female, or which is less than four months
13 old;

14 (2) outdoors between the hours of 11 p.m. and 5 a.m., but this
15 paragraph shall not take effect until 18 months after the date on
16 which **[this act]** P.L.2017, c.189 (C.4:22-17.1 et seq.) takes effect;

17 (3) **[in an]** on unoccupied **[building]** or **[upon]** vacant
18 property , or in any structure thereon;

19 (4) in a manner that does not permit the dog continuous access
20 to water in a sanitary and liquid state whenever the dog is tethered
21 for more than 30 minutes;

22 (5) in a manner that exposes the dog to adverse environmental
23 conditions for more than 30 minutes;

24 (6) by means of a choke collar, prong collar, head harness, or
25 any other type of collar, harness, or similar device other than a
26 properly fitted body harness or buckle-type collar;

27 (7) by using a chain with metal links that are more than one-
28 quarter of an inch thick, or a tether, collar, or harness to which a
29 weight is attached;

30 (8) with a tether on which more than one dog is restrained;

31 (9) with a tether that is less than 15 feet in length or which does
32 not permit the dog to walk at least 15 feet in any one direction; **[or]**

33 (10) with a tether that permits the dog to reach another dog or an
34 object or location that poses a risk of entanglement, strangulation,
35 drowning, or other harm to the health or safety of the dog,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAN committee amendments adopted March 23, 2023.

²Assembly AAP committee amendments adopted May 18, 2023.

1 including, but not limited to, another dog's tether or a window sill,
2 fence, wall, porch, terrace railing, vehicle, tree, pole, pool, or public
3 road or highway ; or

4 (11) in a manner that exposes the dog to accumulated waste or
5 other debris, precipitation, or flooding.

6 As used in this subsection, "unoccupied or vacant property"
7 means property that is devoid of human inhabitants or occupants, or
8 on which people do not regularly reside or operate a business.

9 c. Paragraphs (2), (3), (9), and (10) of subsection b. of this
10 section shall not apply if any person, including the dog's owner or
11 the person with custody or control of the dog:

12 (1) is in the presence of the dog at all times while the dog is
13 tethered, whether indoors or outdoors; and

14 (2) can see the dog at all times while the dog is tethered, unless
15 the person is blind or visually impaired so that the person cannot
16 see the dog due to the blindness or visual impairment, in which case
17 the person shall remain immediately adjacent to the dog at all times
18 while the dog is tethered.

19 As used in this subsection, "blind" means a person whose vision
20 in the person's better eye with proper correction does not exceed
21 20/200 or who has a field defect in the person's better eye with
22 proper correction which contracts the peripheral field so that the
23 diameter of the visual field subtends an angle no greater than 20
24 degrees; and "visually impaired" means having a condition in which
25 a person has a corrected visual acuity not exceeding 20/70, but not
26 less than 20/200, in the person's better eye, or in which the
27 peripheral field of the person's vision has contracted so that the
28 diameter of the visual field subtends an angle no greater than 40
29 degrees but no less than 20 degrees.

30 d. (1) The owner of a dog shall be liable for a violation of
31 subsections a. and b. of this section that occurs on any property
32 belonging to the owner or on which the owner resides at the time of
33 the violation, regardless of whether the owner is present when the
34 violation occurs.

35 (2) The person with custody or control of a dog who is not the
36 owner of the dog shall be liable for a violation of subsections a. and
37 b. of this section that occurs on any property belonging to the
38 person with custody or control of the dog or on which the person
39 with custody or control of the dog resides at the time of the
40 violation, regardless of whether the person is present when the
41 violation occurs.

42 (3) **【Paragraph】** Paragraphs (3) and (9) of subsection b. of this
43 section shall not apply if the dog is indoors and a person is indoors
44 with the dog.

45 (cf: P.L.2017, c.189, s.3) **】**¹

46

47 ¹**【**2. Section 5 of P.L.2017, c.189 (C.4:22-17.5) is amended to
48 read as follows:

1 5. a. Proper shelter for a dog, domestic companion animal, or
2 service animal shall be a structure or other type of protection that
3 meets, at a minimum, the following standards and requirements:

4 (1) It provides at all times (a) adequate ventilation to allow the
5 dog, domestic companion animal, or service animal to remain dry
6 and maintain a normal body temperature, (b) access to water in a
7 sanitary and liquid state, (c) exposure to natural or artificial light
8 according to a regular cycle of day and night, (d) sufficient space so
9 that the dog, domestic companion animal, or service animal can
10 easily turn around in a full circle and lie down on the animal's side
11 with limbs outstretched, and (e) when the animal is in a normal
12 sitting position in the proper shelter, the top of the head of the
13 animal cannot touch the ceiling of the proper shelter;

14 (2) It is maintained in a manner to minimize the accumulation of
15 any waste, other debris, precipitation, or other moisture inside,
16 surrounding, and underneath any area or structure providing proper
17 shelter, and to provide reasonable protection from flooding;

18 (3) It is soundly constructed to prevent the sagging or collapse
19 of any part of the structure or protection, and is maintained in good
20 repair with no exposed sharp points or edges;

21 (4) It remains in an upright position at all times;

22 (5) In the event of adverse environmental conditions as set forth
23 in paragraph (1) of the definition of that term in section 1 of **[this**
24 **act]** P.L.2017, c.189 (C.4:22-17.1), it is an enclosed structure that
25 has (a) a solid roof, solid walls with a single opening no larger than
26 necessary to allow the dog, domestic companion animal, or service
27 animal to comfortably enter and exit the structure, and a floor that is
28 not the ground, and (b) insulation, dry bedding, and a windbreak at
29 the entrance that are sufficient to keep the dog, domestic companion
30 animal, or service animal dry and maintain the animal's normal
31 body temperature; and

32 (6) In the event of adverse environmental conditions as set forth
33 in paragraph (2) of the definition of that term in section 1 of **[this**
34 **act]** P.L.2017, c.189 (C.4:22-17.1), it provides the dog, domestic
35 companion animal, or service animal with adequate shade or other
36 cooling area by natural or artificial means to allow the animal to
37 maintain a normal body temperature , including, but not limited to,
38 an open-air canopy, gazebo, tree, shallow pool, or mud wallow,
39 either alone or in combination .

40 b. Any part of the residence of an owner, or other person with
41 custody or control, of a dog, domestic companion animal, or service
42 animal shall be proper shelter for a dog, domestic companion
43 animal, or service animal, provided that the part of the residence,
44 and the use thereof, are in compliance with the requirements for
45 proper shelter set forth in this section.

46 c. Proper shelter for a dog, domestic companion animal, or
47 service animal shall not include:

- 1 (1) a crawl space under a building or a part of a building, such
 2 as under steps, a deck, or a stoop;
- 3 (2) the space under a vehicle;
- 4 (3) the inside of a vehicle if the dog, domestic companion
 5 animal, or service animal is kept in the vehicle in a manner or for a
 6 length of time that a person should reasonably know poses an
 7 adverse risk to the health or safety of the animal; **[or]**
- 8 (4) any structure or protection (a) made from pressure-treated
 9 wood which contains the chemicals arsenic or chromium, (b) with a
 10 floor consisting of wire or chain-link or having openings through
 11 which the paw, hoof, or foot of a dog, domestic companion animal,
 12 or service animal, as applicable, can pass, or (c) that is located
 13 outdoors and is made from cardboard or other materials that are
 14 easily degraded by the elements; or
- 15 (5) unoccupied or vacant property, or any structure thereon, in
 16 which the animal is regularly kept unattended, as "unattended" is
 17 defined in section 1 of P.L.2017, c.189 (C.4:22-17.1).
- 18 As used in this subsection, "unoccupied or vacant property"
 19 means property that is devoid of human inhabitants or occupants, or
 20 on which people do not regularly reside or operate a business.
 21 (cf: P.L.2017, c.189, s.5)]¹

22

23 ¹**[3.] 1.**¹ Section 7 of P.L.2017, c.189 (C.4:22-17.7) is amended
 24 to read as follows:

25 7. a. Upon a showing of probable cause that there has been a
 26 violation of P.L.2017, c.189 (C.4:22-17.1 et seq.) and submission of
 27 proof of issuance of a **[summons]** ¹**[written correction warning**
 28 **pursuant to subsection f. of this section]** **summons**¹, a court of
 29 competent jurisdiction may issue, upon request, a warrant to any
 30 municipal humane law enforcement officer, humane law enforcement
 31 officer of a county society for the prevention of cruelty to animals, or
 32 other State or local law enforcement officer to enter onto the private
 33 property where a dog, domestic companion animal, or service animal
 34 is located and take **[physical]** custody of the animal ¹**[, except that if**
 35 **immediate assistance is required to protect or preserve the animal's life**
 36 **or prevent injury to the animal, no proof of issuance of a written**
 37 **correction warning shall be required for the warrant to be issued]**¹.

38 b. Notwithstanding the provisions of subsection a. of this section,
 39 or any other law, or any rule or regulation adopted pursuant thereto, to
 40 the contrary, any municipal humane law enforcement officer, humane
 41 law enforcement officer of a county society for the prevention of
 42 cruelty to animals, or other State or local law enforcement officer may
 43 immediately enter onto private property where a dog, domestic
 44 companion animal, or service animal is located and take **[physical]**
 45 custody of the animal **[.]** if the officer has a reasonable basis to
 46 believe that, due to a violation of P.L.2017, c.189 (C.4:22-17.1 et

1 seq.), immediate assistance is required to protect or preserve the
2 animal's life or prevent injury to the animal.

3 c. Upon taking **【physical】** custody of a dog, domestic companion
4 animal, or service animal pursuant to subsection a. or b. of this section,
5 the person taking **【physical】** custody of the animal shall:

6 (1) post immediately, in a conspicuous place at the location from
7 which the dog, domestic companion animal, or service animal was
8 taken into custody , the notice required pursuant to subsection d. of
9 this section to the owner or person with custody or control of the dog,
10 domestic companion animal, or service animal; and

11 (2) no later than seven days after the dog, domestic companion
12 animal, or service animal has been taken into custody, send by
13 registered or certified mail **【and by ordinary mail】**, or by personal
14 service, the notice described in subsection d. of this section to :

15 (a) the address of the location from which the dog, domestic
16 companion animal, or service animal was taken into **【physical】**
17 custody ; and

18 (b) the owner of record, if the address for the owner of record is
19 different from the location from which the dog, domestic companion
20 animal, or service animal was taken.

21 d. The notice required pursuant to subsection c. of this section
22 shall:

23 (1) provide a description of the dog, domestic companion animal,
24 or service animal;

25 (2) ¹**【state that the dog, domestic companion animal, or service**
26 **animal may be euthanized upon a veterinarian's written determination**
27 **of medical necessity as required by subsection e. of this section; (3)】¹**
28 **state the statutory authority and reason for taking custody of the dog,**
29 **domestic companion animal, or service animal; and ¹【(4)】**

30 (3)¹ provide contact information, including at least the name of any
31 applicable office or entity, the name of a person at that office or entity,
32 and a telephone number for the owner or person with custody or
33 control of the dog, domestic companion animal, or service animal to
34 obtain information concerning the animal **【, the alleged violation, and】**
35 including where the animal is **【impounded】** in custody .

36 e. A dog, domestic companion animal, or service animal taken
37 into **【physical】** custody pursuant to subsection a. or b. of this section
38 shall be placed in the care of a licensed shelter, pound, or kennel
39 operating as a shelter or pound to ensure the humane care and
40 treatment of the animal. If, after the dog, domestic companion animal,
41 or service animal has been taken into **【physical】** custody, a licensed
42 veterinarian makes a written determination that the animal is in
43 intractable and extreme pain and beyond any reasonable hope of
44 recovery with reasonable veterinary medical treatment, the animal may
45 be euthanized. At any time while the licensed shelter, pound, or
46 kennel operating as a shelter or pound has custody or control of the
47 dog, domestic companion animal, or service animal, it may place the

1 animal in an animal rescue organization facility or a foster home , or
2 otherwise provide care to improve the animal's physical or
3 psychological well-being, if it determines the placement or care is in
4 the best interest of the animal ¹ ~~["], except that euthanasia shall be~~
5 ~~permitted only under the limited circumstances specified in this~~
6 ~~subsection]~~¹ .

7 f. ¹(1)¹ A person shall be issued a ¹ ~~["written"]~~¹ correction
8 warning prior to being cited for a violation of P.L.2017, c.189 (C.4:22-
9 17.1 et seq.) unless the dog, domestic companion animal, or service
10 animal involved in the violation was seized ¹ ~~["under an emergency~~
11 ~~warrant issued pursuant to subsection a. of this section or seized"]~~¹
12 immediately pursuant to subsection b. of this section. A summons
13 ~~["shall"]~~ ¹ ~~["may"]~~ shall¹ be served on the alleged violator ~~["as soon as~~
14 ~~practicable"]~~ ¹ ~~as soon as practicable~~¹ if:

15 ¹ ~~["(1)"]~~ (a)¹ after the seven days have elapsed from the date a
16 ¹ ~~["written"]~~¹ correction warning is issued, no correction has been made;
17 ~~["or"]~~ ¹ ~~or~~¹

18 ¹ ~~["(2)"]~~ (b)¹ the dog, domestic companion animal, or service
19 animal involved in the violation was seized immediately pursuant to
20 subsection b. of this section¹ ~~["; or~~

21 (3) ~~the dog, domestic companion animal, or service animal~~
22 ~~involved in the violation was seized under an emergency warrant~~
23 ~~issued pursuant to subsection a. of this section]~~¹ .

24 ¹(2)¹ If the alleged violator is not the owner of the dog, domestic
25 companion animal, or service animal, the person issuing the
26 ¹ ~~["written"]~~¹ correction warning or summons, as applicable, shall also
27 notify the owner of the animal of the violation and provide the owner
28 with a copy of the issued ¹ ~~["written"]~~¹ correction warning or summons,
29 as applicable.

30 g. Any summons issued for a violation of P.L.2017, c.189
31 (C.4:22-17.1 et seq.) shall contain:

32 (1) a description of the violation and statutory authority; and

33 (2) contact information identifying, at a minimum (a) the name of
34 the investigating agency or office, and (b) the name of the officer
35 issuing the summons or investigating the alleged violation.

36 h. Any municipal humane law enforcement officer, humane law
37 enforcement officer of a county society for the prevention of cruelty to
38 animals, or other State or local law enforcement officer issuing a
39 summons for a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.) shall
40 also serve on the alleged violator, with the summons, a written notice
41 of:

42 (1) the right to voluntarily forfeit ownership or custody of the dog,
43 domestic companion animal, or service animal;

44 (2) the action or actions required for compliance;

45 (3) a demand for immediate compliance; and

1 (4) a telephone number for the investigating agency or office and
2 the investigating officer or agent.

3 i. Any municipal humane law enforcement officer, humane law
4 enforcement officer of a county society for the prevention of cruelty to
5 animals, or other State or local law enforcement officer may petition a
6 court of competent jurisdiction to have a dog, domestic companion
7 animal, or service animal confiscated, if not previously seized, and
8 forfeited upon the person being found guilty of, or liable for, a
9 violation of P.L.2017, c.189 (C.4:22-17.1 et seq.). Upon a finding that
10 continued possession of the dog, domestic companion animal, or
11 service animal by the owner or other person authorized to have
12 custody or control of the animal poses a threat to the health or safety of
13 the animal, the court shall order that the animal be forfeited, placed in
14 an animal rescue organization facility, shelter, pound, or kennel
15 operating as a shelter or pound, and made available for adoption.

16 j. A person found guilty of, or liable for, a violation of any
17 provision of P.L.2017, c.189 (C.4:22-17.1 et seq.) shall be responsible
18 for, and pay, the reasonable costs of caring for the dog, domestic
19 companion animal, or service animal from the date on which
20 **[physical]** custody of the animal was taken pursuant to this section
21 until the date the animal is surrendered, forfeited, returned, or
22 euthanized, including, but not limited to, the cost of transporting,
23 sheltering, and feeding the animal, the cost of providing the animal
24 with necessary veterinary care, and if the animal is euthanized, the cost
25 of the euthanasia.

26 (cf: P.L.2019, c.83, s.1)

27
28 ¹**[4.] 2.**¹ (New section) As used in sections ¹**[4] 2**¹ through
29 ¹**[7] 5**¹ of P.L. , c. (C.) (pending before the Legislature as this
30 bill):

31 "Animal care agency" means a shelter, pound, kennel, or animal
32 rescue organization, as those terms are defined in section 1 of
33 P.L.1941, c.151 (C.4:19-15.1), or a humane society or other
34 organization that has temporary custody of an animal.

35 "Animal cruelty violation" means a civil or criminal violation of
36 chapter 19 or 22 of Title 4 of the Revised Statutes, Title 2C of the New
37 Jersey Statutes, or any other State law concerning animal cruelty.

38 "Enforcement agency" means any agency, department,
39 organization, or ¹**[count] county**¹ society for the prevention of cruelty
40 to animals, or any agent, humane law enforcement officer, or
41 representative thereof, involved in law enforcement or animal control,
42 or the monitoring of animal welfare and animal cruelty violations.

43 "Reasonable costs of care" means ¹**[(1)]:**¹ the costs of shelter,
44 food, water, and bedding necessary to house an animal¹**[(2)]:**¹ the
45 costs of necessary care to improve an animal's psychological well-
46 being, including, but not limited to, training and enrichments designed
47 to provide mental and physical stimulation¹**[(3)]:**¹ and ¹**[(3)]**¹ the costs

1 of necessary veterinary care for an animal, including, but not limited
2 to, surgical intervention, medicine, vaccinations, and euthanasia and
3 disposal costs, as determined necessary by a licensed veterinarian.
4 ¹“Reasonable costs of care” does not include the costs of elective
5 surgical procedures.¹
6

7 ¹[5.] 3.¹ (New section) a. Notwithstanding the provisions of
8 any other law, or any rule or regulation adopted pursuant thereto, to
9 the contrary, upon a showing of probable cause that there has been an
10 animal cruelty violation, a court of competent jurisdiction may issue,
11 upon request, a warrant to any municipal humane law enforcement
12 officer, humane law enforcement officer of a county society for the
13 prevention of cruelty to animals, or other State or local law
14 enforcement officer to enter onto the private property where an animal
15 is located and take custody of the animal.

16 b. Notwithstanding the provisions of subsection a. of this section,
17 or any other law, or any rule or regulation adopted pursuant thereto, to
18 the contrary, a municipal humane law enforcement officer, humane
19 law enforcement officer of a county society for the prevention of
20 cruelty to animals, or other State or local law enforcement officer may
21 immediately enter onto private property where an animal is located
22 and take custody of an animal if the officer has a reasonable basis to
23 believe that, due to an animal cruelty violation, immediate assistance is
24 required to protect or preserve the animal's life or prevent injury to the
25 animal.

26 c. ¹Upon taking custody of an animal pursuant to subsection a. or
27 b. of this section, the person taking custody of the animal shall:

28 (1) post immediately, in a conspicuous place at the location from
29 which the animal was taken into custody, the notice required pursuant
30 to subsection d. of this section to the owner or person with custody or
31 control of the animal;

32 (2) no later than seven days after the animal has been taken into
33 custody, send by registered or certified mail, or by personal service,
34 the notice described in subsection d. of this section, to:

35 (a) the address of the location from which the animal was taken
36 into custody; and

37 (b) the owner of record, if the address for the owner of record is
38 different from the address of the location from which the animal was
39 taken.

40 d. The notice required pursuant to subsection c. of this section
41 shall:

42 (1) provide a description of the animal;

43 (2) state the statutory authority and reason for taking custody of
44 the animal; and

45 (3) provide contact information, including at least the name of any
46 applicable office or entity, the name of a person at that office or entity,
47 and a telephone number for the owner or person having custody or

1 control of the animal to obtain information concerning the animal,
2 including where the animal is in custody.

3 e.¹ An animal taken into custody pursuant to subsection a. or b. of
4 this section shall be placed in the care of a licensed shelter, pound, or
5 kennel operating as a shelter or pound to ensure the humane care and
6 treatment of the animal. If, after the animal has been taken into
7 custody, a licensed veterinarian makes a written determination that the
8 animal is in intractable and extreme pain and 'is'¹ beyond any
9 reasonable hope of recovery with reasonable veterinary medical
10 treatment, the animal may be euthanized. At any time while the
11 licensed shelter, pound, or kennel operating as a shelter or pound has
12 custody or control of the animal, it may place the animal in an animal
13 rescue organization facility or a foster home, or 'may'¹ otherwise
14 provide care to improve the animal's physical or psychological well-
15 being, if it determines that such placement or care is in the best
16 interests of the animal¹], except that euthanasia will be permitted only
17 under the limited circumstances specified in this subsection¹].
18

19 '[6.] 4.'¹ (New section) a. An animal care agency that takes
20 custody of an animal pursuant to section '[5] 3'¹ of P.L. , c.
21 (C.) (pending before the Legislature as this bill), or an
22 authorized agent of the animal care agency, including an attorney
23 prosecuting an animal cruelty violation on behalf of a municipality or
24 county, may, no later than 20 days after the animal is taken into
25 custody, file an action in the Superior Court seeking the reasonable
26 costs of care for the animal from the animal's owner, or, if the owner
27 is not known to the plaintiff, the person from whom the animal was
28 taken. A copy of the complaint shall be served upon the animal's
29 owner, or, if the owner is not known to the plaintiff, to the person from
30 whom the animal was taken in accordance with the rules of the court.
31 The complaint shall include:

32 (1) the name, business address, and telephone number of the
33 animal care agency that has custody of the animal;

34 (2) a description of the animal taken into custody, including a
35 licensed veterinarian's assessment of the animal's condition and needs;

36 (3) a statement of the actual and estimated reasonable costs of care
37 for the animal;

38 (4) a statement that, at any time after the animal has been taken
39 into custody, the animal's owner may relinquish ownership of the
40 animal to the enforcement agency that seized the animal or to the
41 animal care agency with custody of the animal;

42 (5) a statement that, if the animal's owner or the person from
43 whom the animal was taken fails to pay any portion of the reasonable
44 costs of care for the animal, as established by the court, when due,
45 ownership of the animal shall immediately transfer to the animal care
46 agency with custody of the animal; and

1 (6) a plain language summary of the provisions of P.L. , c.
2 (C.) (pending before the Legislature as this bill), to be prepared
3 by the Attorney General's Office and distributed to animal care
4 agencies in the State.

5 b. Upon receipt of a complaint filed pursuant to subsection a. of
6 this section, the court shall schedule a hearing on the complaint to be
7 conducted no later than 30 days after the date on which the complaint
8 is filed with the court. Failure by the court to hold a timely hearing
9 pursuant to this subsection shall not affect the disposition of the animal
10 under the provisions of P.L. , c. (C.) (pending before the
11 Legislature as this bill) or the disposition of any pending animal
12 cruelty case against the person from whom an animal was seized.

13 c. At the hearing on a complaint filed pursuant to subsection a. of
14 this section, the plaintiff shall establish by a preponderance of the
15 evidence that the animal was taken into custody ¹either for the
16 animal's protection from harm ¹or for needed medical attention¹.
17 The court may consider testimony from the agent or officer who seized
18 the animal and other witnesses as to the condition of the animal when
19 seized and as to the conditions under which the animal or other
20 animals in the household were kept, testimony and evidence as to the
21 veterinary care provided to the animal, expert testimony as to the
22 ²community standards for² proper and reasonable care of the same
23 type of animal, testimony from any witnesses as to the prior treatment
24 or condition of this or other animals in the custody of the owner or
25 person from whom the animal was taken, or any other evidence the
26 court considers to be material or relevant. The plaintiff shall also
27 demonstrate that the animal's owner, or, if the animal's owner is not
28 known, the person from whom the animal was taken, was served with
29 a copy of the complaint as required pursuant to subsection a. of this
30 section.

31 (1) If the court determines that the plaintiff has demonstrated by a
32 preponderance of the evidence that the animal was taken into custody
33 ¹either for the animal's protection ¹or for needed medical
34 attention¹ and that the service and content of the complaint met the
35 requirements of subsection a. of this section, the court shall award
36 damages for the reasonable costs of care for the animal for the period
37 the animal is in the custody and care of the animal care agency against
38 the animal's owner or the person from whom the animal was taken, as
39 appropriate. The costs shall be calculated from the date the animal
40 was taken into custody by the enforcement agency or animal care
41 agency, whichever is earlier.

42 (2) If the court determines that the plaintiff has not shown by a
43 preponderance of the evidence that an animal was taken into custody
44 ¹either for the animal's protection ¹or for needed medical
45 attention¹, the court shall not award damages for the reasonable costs
46 of care, but the animal shall remain in the custody of the animal care
47 agency during the pendency of the criminal investigation and

1 proceeding related to the alleged criminal offense that led to the
2 seizure of the animal.

3 (3) If the court determines that the service or content of the
4 complaint did not meet the requirements of subsection a. of this
5 section, the animal shall remain in the custody of the animal care
6 agency during the pendency of the criminal investigation and
7 proceeding related to the alleged criminal offense that led to the
8 seizure of the animal. The plaintiff may petition the court for a thirty-
9 day extension to refile the complaint.

10 d. Unless otherwise ordered by the court, no later than seven days
11 after the issuance of a court order pursuant to subsection c. of this
12 section, the person found liable for the reasonable costs of care shall
13 pay the animal care agency the full amount, as required by the court,
14 for the respective 30-day period. The person shall make a new
15 payment in the same amount every 30 days until:

16 (1) the owner voluntarily transfers ownership of the animal to the
17 animal care agency;

18 (2) ownership of the animal is transferred to the animal care
19 agency pursuant to subsection f. of this section;

20 (3) the animal is euthanized pursuant to subsection g. of this
21 section; or

22 (4) final disposition of the proceeding related to the alleged
23 criminal offense that led to the seizure of the animal, including
24 forfeiture of the animal pursuant to section ¹[7] 5¹ of P.L. ,
25 c. (C.) (pending before the Legislature as this bill) or any other
26 law.

27 Upon a change in the animal's ownership status pursuant to
28 paragraphs (1) through (4) of this subsection, any unexpended amounts
29 paid by the person to the animal care agency shall be returned to the
30 person.

31 e. If the person against whom a judgment pursuant to subsection
32 ¹[e.] c.¹ of this section was entered fails to make a payment for the
33 reasonable costs of care for an animal within seven days of the date of
34 issuance of the court order and every 30 days thereafter as required
35 pursuant to subsection ¹[e.] d.¹ of this section, ownership of the
36 animal shall immediately transfer, by operation of law, to the animal
37 care agency with custody of the animal, and the animal care agency
38 shall obtain all rights and ¹[privilege] privileges¹ in and over the
39 animal.

40 f. An animal care agency shall not sell¹[.]; permanently alter,
41 unless medically necessary;¹ euthanize¹[.];¹ offer for adoption¹[.];¹
42 or otherwise dispose of an animal if the person liable for the
43 reasonable costs of care for the animal makes timely payments of such
44 costs to the animal care agency as required by the court; provided,
45 however, that an animal care agency may euthanize an animal at any
46 time if a licensed veterinarian makes a written determination that the

1 animal is experiencing intractable and extreme pain and is beyond any
2 reasonable hope of recovery.

3 g. If a person liable for the reasonable costs of care pursuant to
4 this section is found not guilty of the alleged criminal animal cruelty
5 offense that led to the seizure of the animal, and if the person has made
6 timely payments of the reasonable costs of care pursuant to this
7 section, the person shall have the right to immediately repossess the
8 person's animal and to be reimbursed by the animal care agency for all
9 of the reasonable costs of care¹], except those related to necessary
10 veterinary care,¹ that were paid by the person to the animal care
11 agency.

12 h. The result of any hearing held pursuant to this section, and any
13 statement made by a party in the course of such a hearing, shall not be
14 admissible in any criminal prosecution for an animal cruelty violation.

15 i. If the owner or the person from whom an animal was taken, as
16 applicable, fails to appear for a hearing for the reasonable costs of care
17 for an animal pursuant to this section, the owner or other person shall
18 be liable for the costs, and all other provisions of this section shall
19 remain in force.

20 j. As used in this section, "animal" means any vertebrate other
21 than humans, except that, other than animals used in connection with a
22 violation of R.S.4:22-24 and equine animals, "animal" shall not
23 include "domestic livestock" as defined by section 1 of P.L.1995,
24 c.311 (C.4:22-16.1).

25

26 ¹[7.] 5.¹ (New section) a. ²(1)² Notwithstanding the provisions
27 of any other law, or any rule or regulation adopted pursuant thereto, to
28 the contrary, an animal care agency or enforcement agency may, upon
29 the conviction of a person for an animal cruelty violation, petition the
30 court in the animal cruelty proceeding for an order requiring forfeiture
31 of the animal that is the basis of the conviction ¹and prohibiting the
32 person convicted of an animal cruelty violation from owning,
33 harboring, residing with, or having custody or control of any other
34 animals for a period of time that the court deems appropriate¹.

35 ²(2) Notwithstanding the provisions of any other law, or any rule
36 or regulation adopted pursuant thereto, to the contrary, a co-owner of
37 the animal that is the basis of the conviction may, upon such
38 conviction, petition the court to transfer the animal to the custody of
39 the petitioner upon a demonstration that the petitioner: (a) is a co-
40 owner of the animal as demonstrated by a written and executed
41 contract showing co-ownership of the animal and dated prior to the
42 date of the violation; (b) does not reside with the defendant; (c) has not
43 been convicted of an animal cruelty violation; and (d) did not harbor or
44 have custody of the animal at the time of the violation for which the
45 defendant was convicted.²

46 b. At the sentencing of a person convicted of an animal cruelty
47 violation, the court, upon its own initiative or in response to a petition

1 filed pursuant to subsection a. of this section, and in addition to any
2 other penalties that may be imposed on the defendant, may:

3 (1) ²(a)² adjudge an animal that is the basis of the conviction for
4 an animal cruelty violation forfeited to the animal care agency with
5 custody of the animal, and invest all rights and privileges over the
6 animal in the animal care agency; ²or (b) order the transfer of custody
7 of the animal to the co-owner pursuant to a petition filed pursuant to
8 paragraph (2) of subsection a. of this section, upon a determination
9 that the co-owner has successfully demonstrated that the conditions in
10 paragraph (2) of subsection a. of this section have been met, and the
11 transfer is in the best interests of the animal's health, safety, and well-
12 being, and will further the goal of protecting the animal from further
13 harm.² and

14 (2) order that the person convicted of an animal cruelty violation
15 ¹[and any person who was convicted for conspiring, aiding, or
16 abetting in the violation that was the basis of the conviction,]¹ shall
17 not own, harbor, ¹reside with,¹ or have custody or control of any other
18 animals for a period of time that the court deems appropriate.

19 ¹[c. Any animal found to be in intractable and extreme pain and
20 that is beyond any reasonable hope of recovery, as certified to the
21 court in writing by a licensed veterinarian, may be euthanized
22 immediately and prior to the issuance of a court order.]¹

23
24 ¹[8.] 6.¹ This act shall take effect immediately.

25
26
27 _____
28
29 Establishes procedures for seizure, care, and forfeiture of
30 animals involved in animal cruelty violations.

SENATE, No. 981

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JANUARY 31, 2022

Sponsored by:

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Senator VIN GOPAL

District 11 (Monmouth)

Co-Sponsored by:

Senators Singleton, Codey, Cunningham, Holzapfel, Stack, Turner, Schepisi, Stanfield, Zwicker, Cruz-Perez, Greenstein, Johnson and Cryan

SYNOPSIS

Revises law prohibiting cruel tethering and confinement of dogs; establishes procedures for seizure, care, and forfeiture of animals involved in animal cruelty violations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/24/2022)

1 AN ACT concerning certain animals involved in animal cruelty
2 violations, supplementing Title 4 of the Revised Statutes, and
3 amending P.L.2017, c.189.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 3 of P.L.2017, c.189 (C.4:22-17.3) is amended to
9 read as follows:

10 3. a. It is unlawful for any person to cruelly restrain a dog.

11 b. A person cruelly restrains a dog if the person tethers a dog:

12 (1) which is a nursing female, or which is less than four months
13 old;

14 (2) outdoors between the hours of 11 p.m. and 5 a.m., but this
15 paragraph shall not take effect until 18 months after the date on
16 which **[this act]** P.L.2017, c.189 (C.4:22-17.1 et seq.) takes effect;

17 (3) **[in an]** on unoccupied **[building]** or **[upon]** vacant
18 property, or in any structure thereon;

19 (4) in a manner that does not permit the dog continuous access
20 to water in a sanitary and liquid state whenever the dog is tethered
21 for more than 30 minutes;

22 (5) in a manner that exposes the dog to adverse environmental
23 conditions for more than 30 minutes;

24 (6) by means of a choke collar, prong collar, head harness, or
25 any other type of collar, harness, or similar device other than a
26 properly fitted body harness or buckle-type collar;

27 (7) by using a chain with metal links that are more than one-
28 quarter of an inch thick, or a tether, collar, or harness to which a
29 weight is attached;

30 (8) with a tether on which more than one dog is restrained;

31 (9) with a tether that is less than 15 feet in length or which does
32 not permit the dog to walk at least 15 feet in any one direction; **[or]**

33 (10) with a tether that permits the dog to reach another dog or an
34 object or location that poses a risk of entanglement, strangulation,
35 drowning, or other harm to the health or safety of the dog,
36 including, but not limited to, another dog's tether or a window sill,
37 fence, wall, porch, terrace railing, vehicle, tree, pole, pool, or public
38 road or highway ; or

39 (11) in a manner that exposes the dog to accumulated waste or
40 other debris, precipitation, or flooding.

41 As used in this subsection, “unoccupied or vacant property”
42 means property that is devoid of human inhabitants or occupants, or
43 on which people do not regularly reside or operate a business.

44 c. Paragraphs (2), (3), (9), and (10) of subsection b. of this
45 section shall not apply if any person, including the dog's owner or
46 the person with custody or control of the dog:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (1) is in the presence of the dog at all times while the dog is
2 tethered, whether indoors or outdoors; and

3 (2) can see the dog at all times while the dog is tethered, unless
4 the person is blind or visually impaired so that the person cannot
5 see the dog due to the blindness or visual impairment, in which case
6 the person shall remain immediately adjacent to the dog at all times
7 while the dog is tethered.

8 As used in this subsection, "blind" means a person whose vision
9 in the person's better eye with proper correction does not exceed
10 20/200 or who has a field defect in the person's better eye with
11 proper correction which contracts the peripheral field so that the
12 diameter of the visual field subtends an angle no greater than 20
13 degrees; and "visually impaired" means having a condition in which
14 a person has a corrected visual acuity not exceeding 20/70, but not
15 less than 20/200, in the person's better eye, or in which the
16 peripheral field of the person's vision has contracted so that the
17 diameter of the visual field subtends an angle no greater than 40
18 degrees but no less than 20 degrees.

19 d. (1) The owner of a dog shall be liable for a violation of
20 subsections a. and b. of this section that occurs on any property
21 belonging to the owner or on which the owner resides at the time of
22 the violation, regardless of whether the owner is present when the
23 violation occurs.

24 (2) The person with custody or control of a dog who is not the
25 owner of the dog shall be liable for a violation of subsections a. and
26 b. of this section that occurs on any property belonging to the
27 person with custody or control of the dog or on which the person
28 with custody or control of the dog resides at the time of the
29 violation, regardless of whether the person is present when the
30 violation occurs.

31 (3) **【Paragraph】** Paragraphs (3) and (9) of subsection b. of this
32 section shall not apply if the dog is indoors and a person is indoors
33 with the dog.

34 (cf: P.L.2017, c.189, s.3)

35

36 2. Section 5 of P.L.2017, c.189 (C.4:22-17.5) is amended to
37 read as follows:

38 5. a. Proper shelter for a dog, domestic companion animal, or
39 service animal shall be a structure or other type of protection that
40 meets, at a minimum, the following standards and requirements:

41 (1) It provides at all times (a) adequate ventilation to allow the
42 dog, domestic companion animal, or service animal to remain dry
43 and maintain a normal body temperature, (b) access to water in a
44 sanitary and liquid state, (c) exposure to natural or artificial light
45 according to a regular cycle of day and night, (d) sufficient space so
46 that the dog, domestic companion animal, or service animal can
47 easily turn around in a full circle and lie down on the animal's side
48 with limbs outstretched, and (e) when the animal is in a normal

- 1 sitting position in the proper shelter, the top of the head of the
2 animal cannot touch the ceiling of the proper shelter;
- 3 (2) It is maintained in a manner to minimize the accumulation of
4 any waste, other debris, precipitation, or other moisture inside,
5 surrounding, and underneath any area or structure providing proper
6 shelter, and to provide reasonable protection from flooding;
- 7 (3) It is soundly constructed to prevent the sagging or collapse
8 of any part of the structure or protection, and is maintained in good
9 repair with no exposed sharp points or edges;
- 10 (4) It remains in an upright position at all times;
- 11 (5) In the event of adverse environmental conditions as set forth
12 in paragraph (1) of the definition of that term in section 1 of **[this**
13 **act]** P.L.2017, c.189 (C.4:22-17.1), it is an enclosed structure that
14 has (a) a solid roof, solid walls with a single opening no larger than
15 necessary to allow the dog, domestic companion animal, or service
16 animal to comfortably enter and exit the structure, and a floor that is
17 not the ground, and (b) insulation, dry bedding, and a windbreak at
18 the entrance that are sufficient to keep the dog, domestic companion
19 animal, or service animal dry and maintain the animal's normal
20 body temperature; and
- 21 (6) In the event of adverse environmental conditions as set forth
22 in paragraph (2) of the definition of that term in section 1 of **[this**
23 **act]** P.L.2017, c.189 (C.4:22-17.1), it provides the dog, domestic
24 companion animal, or service animal with adequate shade or other
25 cooling area by natural or artificial means to allow the animal to
26 maintain a normal body temperature , including, but not limited to,
27 an open-air canopy, gazebo, tree, shallow pool, or mud wallow,
28 either alone or in combination .
- 29 b. Any part of the residence of an owner, or other person with
30 custody or control, of a dog, domestic companion animal, or service
31 animal shall be proper shelter for a dog, domestic companion
32 animal, or service animal, provided that the part of the residence,
33 and the use thereof, are in compliance with the requirements for
34 proper shelter set forth in this section.
- 35 c. Proper shelter for a dog, domestic companion animal, or
36 service animal shall not include:
- 37 (1) a crawl space under a building or a part of a building, such
38 as under steps, a deck, or a stoop;
- 39 (2) the space under a vehicle;
- 40 (3) the inside of a vehicle if the dog, domestic companion
41 animal, or service animal is kept in the vehicle in a manner or for a
42 length of time that a person should reasonably know poses an
43 adverse risk to the health or safety of the animal; **[or]**
- 44 (4) any structure or protection (a) made from pressure-treated
45 wood which contains the chemicals arsenic or chromium, (b) with a
46 floor consisting of wire or chain-link or having openings through
47 which the paw, hoof, or foot of a dog, domestic companion animal,

1 or service animal, as applicable, can pass, or (c) that is located
2 outdoors and is made from cardboard or other materials that are
3 easily degraded by the elements; or

4 (5) unoccupied or vacant property, or any structure thereon, in
5 which the animal is regularly kept unattended, as "unattended" is
6 defined in section 1 of P.L.2017, c.189 (C.4:22-17.1).

7 As used in this subsection, "unoccupied or vacant property"
8 means property that is devoid of human inhabitants or occupants, or
9 on which people do not regularly reside or operate a business.

10 (cf: P.L.2017, c.189, s.5)

11

12 3. Section 7 of P.L.2017, c.189 (C.4:22-17.7) is amended to
13 read as follows:

14 7. a. Upon a showing of probable cause that there has been a
15 violation of P.L.2017, c.189 (C.4:22-17.1 et seq.) and submission of
16 proof of issuance of a **【summons】** written correction warning
17 pursuant to subsection f. of this section, a court of competent
18 jurisdiction may issue, upon request, a warrant to any municipal
19 humane law enforcement officer, humane law enforcement officer
20 of a county society for the prevention of cruelty to animals, or other
21 State or local law enforcement officer to enter onto the private
22 property where a dog, domestic companion animal, or service
23 animal is located and take **【physical】** custody of the animal, except
24 that if immediate assistance is required to protect or preserve the
25 animal's life or prevent injury to the animal, no proof of issuance of
26 a written correction warning shall be required for the warrant to be
27 issued.

28 b. Notwithstanding the provisions of subsection a. of this
29 section, or any other law, or any rule or regulation adopted pursuant
30 thereto, to the contrary, any municipal humane law enforcement
31 officer, humane law enforcement officer of a county society for the
32 prevention of cruelty to animals, or other State or local law
33 enforcement officer may immediately enter onto private property
34 where a dog, domestic companion animal, or service animal is
35 located and take **【physical】** custody of the animal **【,】** if the officer
36 has a reasonable basis to believe that, due to a violation of
37 P.L.2017, c.189 (C.4:22-17.1 et seq.), immediate assistance is
38 required to protect or preserve the animal's life or prevent injury to
39 the animal.

40 c. Upon taking **【physical】** custody of a dog, domestic
41 companion animal, or service animal pursuant to subsection a. or b.
42 of this section, the person taking **【physical】** custody of the animal
43 shall:

44 (1) post immediately, in a conspicuous place at the location
45 from which the dog, domestic companion animal, or service animal
46 was taken into custody , the notice required pursuant to subsection

- 1 d. of this section to the owner or person with custody or control of
2 the dog, domestic companion animal, or service animal; and
- 3 (2) no later than seven days after the dog, domestic companion
4 animal, or service animal has been taken into custody, send by
5 registered or certified mail **【and by ordinary mail】**, or by personal
6 service, the notice described in subsection d. of this section to :
- 7 (a) the address of the location from which the dog, domestic
8 companion animal, or service animal was taken into **【physical】**
9 custody ; and
- 10 (b) the owner of record, if the address for the owner of record is
11 different from the location from which the dog, domestic
12 companion animal, or service animal was taken.
- 13 d. The notice required pursuant to subsection c. of this section
14 shall: (1) provide a description of the dog, domestic companion
15 animal, or service animal; (2) state that the dog, domestic
16 companion animal, or service animal may be euthanized upon a
17 veterinarian's written determination of medical necessity as required
18 by subsection e. of this section; (3) state the statutory authority and
19 reason for taking custody of the dog, domestic companion animal,
20 or service animal; and (4) provide contact information, including at
21 least the name of any applicable office or entity, the name of a
22 person at that office or entity, and a telephone number for the owner
23 or person with custody or control of the dog, domestic companion
24 animal, or service animal to obtain information concerning the
25 animal **【, the alleged violation, and】** including where the animal is
26 **【impounded】** in custody .
- 27 e. A dog, domestic companion animal, or service animal taken
28 into **【physical】** custody pursuant to subsection a. or b. of this
29 section shall be placed in the care of a licensed shelter, pound, or
30 kennel operating as a shelter or pound to ensure the humane care
31 and treatment of the animal. If, after the dog, domestic companion
32 animal, or service animal has been taken into **【physical】** custody, a
33 licensed veterinarian makes a written determination that the animal
34 is in intractable and extreme pain and beyond any reasonable hope
35 of recovery with reasonable veterinary medical treatment, the
36 animal may be euthanized. At any time while the licensed shelter,
37 pound, or kennel operating as a shelter or pound has custody or
38 control of the dog, domestic companion animal, or service animal, it
39 may place the animal in an animal rescue organization facility or a
40 foster home , or otherwise provide care to improve the animal's
41 physical or psychological well-being, if it determines the placement
42 or care is in the best interest of the animal , except that euthanasia
43 shall be permitted only under the limited circumstances specified in
44 this subsection .
- 45 f. A person shall be issued a written correction warning prior
46 to being cited for a violation of P.L.2017, c.189 (C.4:22-17.1 et
47 seq.) unless the dog, domestic companion animal, or service animal

1 involved in the violation was seized under an emergency warrant
2 issued pursuant to subsection a. of this section or seized
3 immediately pursuant to subsection b. of this section. A summons
4 **【shall】** may be served on the alleged violator **【as soon as**
5 **practicable】** if:

6 (1) after the seven days have elapsed from the date a written
7 correction warning is issued, no correction has been made; **【or】**

8 (2) the dog, domestic companion animal, or service animal
9 involved in the violation was seized immediately pursuant to
10 subsection b. of this section; or

11 (3) the dog, domestic companion animal, or service animal
12 involved in the violation was seized under an emergency warrant
13 issued pursuant to subsection a. of this section.

14 If the alleged violator is not the owner of the dog, domestic
15 companion animal, or service animal, the person issuing the written
16 correction warning or summons, as applicable, shall also notify the
17 owner of the animal of the violation and provide the owner with a
18 copy of the issued written correction warning or summons, as
19 applicable.

20 g. Any summons issued for a violation of P.L.2017, c.189
21 (C.4:22-17.1 et seq.) shall contain:

22 (1) a description of the violation and statutory authority; and

23 (2) contact information identifying, at a minimum (a) the name
24 of the investigating agency or office, and (b) the name of the officer
25 issuing the summons or investigating the alleged violation.

26 h. Any municipal humane law enforcement officer, humane
27 law enforcement officer of a county society for the prevention of
28 cruelty to animals, or other State or local law enforcement officer
29 issuing a summons for a violation of P.L.2017, c.189 (C.4:22-17.1
30 et seq.) shall also serve on the alleged violator, with the summons, a
31 written notice of:

32 (1) the right to voluntarily forfeit ownership or custody of the
33 dog, domestic companion animal, or service animal;

34 (2) the action or actions required for compliance;

35 (3) a demand for immediate compliance; and

36 (4) a telephone number for the investigating agency or office
37 and the investigating officer or agent.

38 i. Any municipal humane law enforcement officer, humane
39 law enforcement officer of a county society for the prevention of
40 cruelty to animals, or other State or local law enforcement officer
41 may petition a court of competent jurisdiction to have a dog,
42 domestic companion animal, or service animal confiscated, if not
43 previously seized, and forfeited upon the person being found guilty
44 of, or liable for, a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.).
45 Upon a finding that continued possession of the dog, domestic
46 companion animal, or service animal by the owner or other person
47 authorized to have custody or control of the animal poses a threat to
48 the health or safety of the animal, the court shall order that the

1 animal be forfeited, placed in an animal rescue organization facility,
2 shelter, pound, or kennel operating as a shelter or pound, and made
3 available for adoption.

4 j. A person found guilty of, or liable for, a violation of any
5 provision of P.L.2017, c.189 (C.4:22-17.1 et seq.) shall be
6 responsible for, and pay, the reasonable costs of caring for the dog,
7 domestic companion animal, or service animal from the date on
8 which **【physical】** custody of the animal was taken pursuant to this
9 section until the date the animal is surrendered, forfeited, returned,
10 or euthanized, including, but not limited to, the cost of transporting,
11 sheltering, and feeding the animal, the cost of providing the animal
12 with necessary veterinary care, and if the animal is euthanized, the
13 cost of the euthanasia.

14 (cf: P.L.2019, c.83, s.1)

15

16 4. (New section) As used in sections 4 through 7 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill):

18 "Animal care agency" means a shelter, pound, kennel, or animal
19 rescue organization, as those terms are defined in section 1 of
20 P.L.1941, c.151 (C.4:19-15.1), or a humane society or other
21 organization that has temporary custody of an animal.

22 "Animal cruelty violation" means a civil or criminal violation of
23 chapter 19 or 22 of Title 4 of the Revised Statutes, Title 2C of the
24 New Jersey Statutes, or any other State law concerning animal
25 cruelty.

26 "Enforcement agency" means any agency, department,
27 organization, or count society for the prevention of cruelty to
28 animals, or any agent, humane law enforcement officer, or
29 representative thereof, involved in law enforcement or animal
30 control, or the monitoring of animal welfare and animal cruelty
31 violations.

32 "Reasonable costs of care" means (1) the costs of shelter, food,
33 water, and bedding necessary to house an animal, (2) the costs of
34 necessary care to improve an animal's psychological well-being,
35 including, but not limited to, training and enrichments designed to
36 provide mental and physical stimulation, and (3) the costs of
37 necessary veterinary care for an animal, including, but not limited
38 to, surgical intervention, medicine, vaccinations, and euthanasia and
39 disposal costs, as determined necessary by a licensed veterinarian.

40

41 5. (New section) a. Notwithstanding the provisions of any
42 other law, or any rule or regulation adopted pursuant thereto, to the
43 contrary, upon a showing of probable cause that there has been an
44 animal cruelty violation, a court of competent jurisdiction may
45 issue, upon request, a warrant to any municipal humane law
46 enforcement officer, humane law enforcement officer of a county
47 society for the prevention of cruelty to animals, or other State or

1 local law enforcement officer to enter onto the private property
2 where an animal is located and take custody of the animal.

3 b. Notwithstanding the provisions of subsection a. of this
4 section, or any other law, or any rule or regulation adopted pursuant
5 thereto, to the contrary, a municipal humane law enforcement
6 officer, humane law enforcement officer of a county society for the
7 prevention of cruelty to animals, or other State or local law
8 enforcement officer may immediately enter onto private property
9 where an animal is located and take custody of an animal if the
10 officer has a reasonable basis to believe that, due to an animal
11 cruelty violation, immediate assistance is required to protect or
12 preserve the animal's life or prevent injury to the animal.

13 c. An animal taken into custody pursuant to subsection a. or b.
14 of this section shall be placed in the care of a licensed shelter,
15 pound, or kennel operating as a shelter or pound to ensure the
16 humane care and treatment of the animal. If, after the animal has
17 been taken into custody, a licensed veterinarian makes a written
18 determination that the animal is in intractable and extreme pain and
19 beyond any reasonable hope of recovery with reasonable veterinary
20 medical treatment, the animal may be euthanized. At any time
21 while the licensed shelter, pound, or kennel operating as a shelter or
22 pound has custody or control of the animal, it may place the animal
23 in an animal rescue organization facility or a foster home, or
24 otherwise provide care to improve the animal's physical or
25 psychological well-being, if it determines that such placement or
26 care is in the best interests of the animal, except that euthanasia will
27 be permitted only under the limited circumstances specified in this
28 subsection.

29
30 6. (New section) a. An animal care agency that takes custody of
31 an animal pursuant to section 5 of P.L. , c. (C.) (pending
32 before the Legislature as this bill), or an authorized agent of the animal
33 care agency, including an attorney prosecuting an animal cruelty
34 violation on behalf of a municipality or county, may, no later than 20
35 days after the animal is taken into custody, file an action in the
36 Superior Court seeking the reasonable costs of care for the animal
37 from the animal's owner, or, if the owner is not known to the plaintiff,
38 the person from whom the animal was taken. A copy of the complaint
39 shall be served upon the animal's owner, or, if the owner is not known
40 to the plaintiff, to the person from whom the animal was taken in
41 accordance with the rules of the court. The complaint shall include:

42 (1) the name, business address, and telephone number of the
43 animal care agency that has custody of the animal;

44 (2) a description of the animal taken into custody, including a
45 licensed veterinarian's assessment of the animal's condition and needs;

46 (3) a statement of the actual and estimated reasonable costs of care
47 for the animal;

1 (4) a statement that, at any time after the animal has been taken
2 into custody, the animal's owner may relinquish ownership of the
3 animal to the enforcement agency that seized the animal or to the
4 animal care agency with custody of the animal;

5 (5) a statement that, if the animal's owner or the person from
6 whom the animal was taken fails to pay any portion of the reasonable
7 costs of care for the animal, as established by the court, when due,
8 ownership of the animal shall immediately transfer to the animal care
9 agency with custody of the animal; and

10 (6) a plain language summary of the provisions of
11 P.L. , c. (C.) (pending before the Legislature as this bill), to
12 be prepared by the Attorney General's Office and distributed to animal
13 care agencies in the State.

14 b. Upon receipt of a complaint filed pursuant to subsection a. of
15 this section, the court shall schedule a hearing on the complaint to be
16 conducted no later than 30 days after the date on which the complaint
17 is filed with the court. Failure by the court to hold a timely hearing
18 pursuant to this subsection shall not affect the disposition of the animal
19 under the provisions of P.L. , c. (C.) (pending before the
20 Legislature as this bill) or the disposition of any pending animal
21 cruelty case against the person from whom an animal was seized.

22 c. At the hearing on a complaint filed pursuant to subsection a. of
23 this section, the plaintiff shall establish by a preponderance of the
24 evidence that the animal was taken into custody either for the animal's
25 protection from harm or for needed medical attention. The court may
26 consider testimony from the agent or officer who seized the animal
27 and other witnesses as to the condition of the animal when seized and
28 as to the conditions under which the animal or other animals in the
29 household were kept, testimony and evidence as to the veterinary care
30 provided to the animal, expert testimony as to the community
31 standards for proper and reasonable care of the same type of animal,
32 testimony from any witnesses as to the prior treatment or condition of
33 this or other animals in the custody of the owner or person from whom
34 the animal was taken, or any other evidence the court considers to be
35 material or relevant. The plaintiff shall also demonstrate that the
36 animal's owner, or, if the animal's owner is not known, the person
37 from whom the animal was taken, was served with a copy of the
38 complaint as required pursuant to subsection a. of this section.

39 (1) If the court determines that the plaintiff has demonstrated by a
40 preponderance of the evidence that the animal was taken into custody
41 either for the animal's protection or for needed medical attention and
42 that the service and content of the complaint met the requirements of
43 subsection a. of this section, the court shall award damages for the
44 reasonable costs of care for the animal for the period the animal is in
45 the custody and care of the animal care agency against the animal's
46 owner or the person from whom the animal was taken, as appropriate.
47 The costs shall be calculated from the date the animal was taken into

1 custody by the enforcement agency or animal care agency, whichever
2 is earlier.

3 (2) If the court determines that the plaintiff has not shown by a
4 preponderance of the evidence that an animal was taken into custody
5 either for the animal's protection or for needed medical attention, the
6 court shall not award damages for the reasonable costs of care, but the
7 animal shall remain in the custody of the animal care agency during
8 the pendency of the criminal investigation and proceeding related to
9 the alleged criminal offense that led to the seizure of the animal.

10 (3) If the court determines that the service or content of the
11 complaint did not meet the requirements of subsection a. of this
12 section, the animal shall remain in the custody of the animal care
13 agency during the pendency of the criminal investigation and
14 proceeding related to the alleged criminal offense that led to the
15 seizure of the animal. The plaintiff may petition the court for a thirty-
16 day extension to refile the complaint.

17 d. Unless otherwise ordered by the court, no later than seven days
18 after the issuance of a court order pursuant to subsection c. of this
19 section, the person found liable for the reasonable costs of care shall
20 pay the animal care agency the full amount, as required by the court,
21 for the respective 30-day period. The person shall make a new
22 payment in the same amount every 30 days until:

23 (1) the owner voluntarily transfers ownership of the animal to the
24 animal care agency;

25 (2) ownership of the animal is transferred to the animal care
26 agency pursuant to subsection f. of this section;

27 (3) the animal is euthanized pursuant to subsection g. of this
28 section; or

29 (4) final disposition of the proceeding related to the alleged
30 criminal offense that led to the seizure of the animal, including
31 forfeiture of the animal pursuant to section 7 of P.L. , c. (C.)
32 (pending before the Legislature as this bill) or any other law.

33 Upon a change in the animal's ownership status pursuant to
34 paragraphs (1) through (4) of this subsection, any unexpended amounts
35 paid by the person to the animal care agency shall be returned to the
36 person.

37 e. If the person against whom a judgment pursuant to subsection
38 e. of this section was entered fails to make a payment for the
39 reasonable costs of care for an animal within seven days of the date of
40 issuance of the court order and every 30 days thereafter as required
41 pursuant to subsection e. of this section, ownership of the animal shall
42 immediately transfer, by operation of law, to the animal care agency
43 with custody of the animal, and the animal care agency shall obtain all
44 rights and privilege in and over the animal.

45 f. An animal care agency shall not sell, euthanize, offer for
46 adoption, or otherwise dispose of an animal if the person liable for the
47 reasonable costs of care for the animal makes timely payments of such
48 costs to the animal care agency as required by the court; provided,

1 however, that an animal care agency may euthanize an animal at any
2 time if a licensed veterinarian makes a written determination that the
3 animal is experiencing intractable and extreme pain and is beyond any
4 reasonable hope of recovery.

5 g. If a person liable for the reasonable costs of care pursuant to
6 this section is found not guilty of the alleged criminal animal cruelty
7 offense that led to the seizure of the animal, and if the person has made
8 timely payments of the reasonable costs of care pursuant to this
9 section, the person shall have the right to immediately repossess the
10 person's animal and to be reimbursed by the animal care agency for all
11 of the reasonable costs of care, except those related to necessary
12 veterinary care, that were paid by the person to the animal care agency.

13 h. The result of any hearing held pursuant to this section, and any
14 statement made by a party in the course of such a hearing, shall not be
15 admissible in any criminal prosecution for an animal cruelty violation.

16 i. If the owner or the person from whom an animal was taken, as
17 applicable, fails to appear for a hearing for the reasonable costs of care
18 for an animal pursuant to this section, the owner or other person shall
19 be liable for the costs, and all other provisions of this section shall
20 remain in force.

21 j. As used in this section, "animal" means any vertebrate other
22 than humans, except that, other than animals used in connection with a
23 violation of R.S.4:22-24 and equine animals, "animal" shall not
24 include "domestic livestock" as defined by section 1 of P.L.1995,
25 c.311 (C.4:22-16.1).

26

27 7. (New section) a. Notwithstanding the provisions of any
28 other law, or any rule or regulation adopted pursuant thereto, to the
29 contrary, an animal care agency or enforcement agency may, upon
30 the conviction of a person for an animal cruelty violation, petition
31 the court in the animal cruelty proceeding for an order requiring
32 forfeiture of the animal that is the basis of the conviction.

33 b. At the sentencing of a person convicted of an animal cruelty
34 violation, the court, upon its own initiative or in response to a
35 petition filed pursuant to subsection a. of this section, and in
36 addition to any other penalties that may be imposed on the
37 defendant, may:

38 (1) adjudge an animal that is the basis of the conviction for an
39 animal cruelty violation forfeited to the animal care agency with
40 custody of the animal, and invest all rights and privileges over the
41 animal in the animal care agency; and

42 (2) order that the person convicted of an animal cruelty violation
43 and any person who was convicted for conspiring, aiding, or
44 abetting in the violation that was the basis of the conviction, shall
45 not own, harbor, or have custody or control of any other animals for
46 a period of time that the court deems appropriate.

1 c. Any animal found to be in intractable and extreme pain and
2 that is beyond any reasonable hope of recovery, as certified to the
3 court in writing by a licensed veterinarian, may be euthanized
4 immediately and prior to the issuance of a court order.

5
6 8. This act shall take effect immediately.
7

8
9 STATEMENT
10

11 This bill would: (1) make various changes to P.L.2017, c.189
12 (C.4:22-17.3 et seq.), which prohibits certain practices of tethering
13 and confining dogs; (2) authorize certain law enforcement officials
14 to take custody of animals in cases of suspected animal cruelty
15 violations; and (3) establish various provisions related to the cost of
16 care of animals taken into custody.

17 Specifically, concerning P.L.2017, c.189, the bill would:

18 (1) provide that it is unlawful to tether a dog on unoccupied or
19 vacant property, or in any structure on such property, unless the dog
20 is (a) accompanied by a person who can see the dog, or (b) is
21 indoors along with a person;

22 (2) make it unlawful to tether a dog in a manner that exposes the
23 dog to accumulated waste or other debris, precipitation, or flooding;

24 (3) clarify that proper shelter for a dog, domestic companion
25 animal, or service animal does not include unoccupied or vacant
26 property, or any structure thereon, in which the animal is regularly
27 kept unattended;

28 (4) provide that a court of competent jurisdiction may issue a
29 warrant concerning a violation of P.L.2017, c.189 after receiving
30 proof of issuance of a written correction warning pursuant to
31 subsection f. of section 7 of P.L.2017, c.189 (C.4:22-17.7), rather
32 than proof of issuance of a summons;

33 (5) provide that a court of competent jurisdiction may issue a
34 warrant concerning a violation of P.L.2017, c.189 without receiving
35 the proof of issuance described above, if immediate assistance is
36 required to protect an animal;

37 (6) specify that the notice required pursuant to subsection c. of
38 section 7 of P.L.2017, c.189 (C.4:22-17.7): (a) must be sent no
39 later than seven days after an animal has been taken into custody;
40 (b) must be sent to the owner as well as the address from which the
41 animal was taken; and (c) need not contain information concerning
42 the alleged violation that led to the seizure; and

43 (7) provide that a licensed shelter, pound, or kennel operating as
44 a shelter or pound that has custody or control of a dog, domestic
45 companion animal, or service animal, because of an alleged
46 violation of P.L.2017, c.189 may provide care to improve the
47 animal's physical or psychological well-being.

1 In addition, the bill would authorize a court of competent
2 jurisdiction to issue a warrant to any municipal humane law
3 enforcement officer, humane law enforcement officer of a county
4 society for the prevention of cruelty to animals, or other State or
5 local law enforcement officer to enter onto the private property
6 where an animal is located and take custody of the animal, upon a
7 showing of probable cause that there has been an animal cruelty
8 violation. In cases where an officer has a reasonable basis to
9 believe that, due to an animal cruelty violation, immediate
10 assistance is required, the officer would be authorized to enter a
11 private property and take custody of an animal without a warrant.

12 The bill would require animals taken into custody in the manner
13 described above to be placed in the care of a licensed shelter,
14 pound, or kennel operating as a shelter or pound. The bill would
15 authorize these facilities to provide care to improve the animal's
16 physical or psychological well-being, or to transfer the animal in an
17 animal rescue organization facility or a foster home, if it determines
18 that such placement or care is in the best interests of the animal.
19 Euthanasia would only be permitted, under the bill, when a licensed
20 veterinarian makes a written determination that the animal is in
21 intractable and extreme pain and beyond any reasonable hope of
22 recovery with reasonable veterinary medical treatment.

23 The bill would authorize an animal care agency (as defined by
24 the bill) that receives and cares for an animal taken into custody in
25 the manner described above to file a complaint in the Superior
26 Court seeking the reasonable costs of care for the animal. The bill
27 would establish various requirements for the form and content of
28 the complaint, as enumerated in subsection a. of section 6 of the
29 bill. If an animal care agency demonstrates by a preponderance of
30 evidence that an animal was taken into custody either for the
31 animal's protection from harm or for needed medical attention and
32 that the complaint was served in the correct manner, the bill would
33 direct the court to award damages for the reasonable costs of care
34 for the animal for the period that the animal is in the custody of the
35 animal care agency. If the court determines that the animal care
36 agency has not shown by a preponderance of evidence that the
37 animal was taken into custody either for the animal's protection or
38 for needed medical attention, no damages would be awarded but the
39 animal would be retained by the animal care agency until the
40 outcome of the animal cruelty proceeding that led to the animal's
41 seizure. If the court determines that complaint was not filed in the
42 correct manner, the animal would be retained by the animal care
43 agency, which could petition the court for a 30-day extension to
44 refile the complaint.

45 The bill establishes various requirements concerning the way in
46 which damages for the reasonable costs of care for an animal are to
47 be paid, as enumerated in subsections c. and d. of section 6 of the

1 bill. If a person fails to make a payment as required by the bill,
2 ownership of the animal would transfer to the animal care agency.

3 The bill would provide that, if a person liable for the reasonable
4 costs of care under the bill were found not guilty of the alleged
5 criminal animal cruelty offense that led to the seizure of the animal,
6 and if the person had made timely payments of the reasonable costs
7 of care, the person would be authorized to immediately repossess
8 the person's animal and to be reimbursed by the animal care agency
9 for all of the reasonable costs of care, except those related to
10 necessary veterinary care, that were paid by the person to the
11 animal care agency.

12 Finally, the bill would authorize animal care agencies and
13 enforcement agencies (as defined by the bill) to petition a court
14 presiding over an animal cruelty proceeding for an order requiring
15 the forfeiture of the animal involved in animal cruelty offense to an
16 animal care agency. The court would also be authorized to order
17 that the person convicted of an animal cruelty violation and any
18 person who was convicted for conspiring, aiding, or abetting in the
19 violation that was the basis of the conviction, be prohibited from
20 owning, harboring, or having custody or control of any other
21 animals for a period of time that the court deems appropriate. The
22 bill would also authorize the court to issue an order as described
23 above upon its own initiative.

ASSEMBLY AGRICULTURE AND FOOD SECURITY
COMMITTEE

STATEMENT TO

SENATE, No. 981

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 23, 2023

The Assembly Agriculture and Food Security Committee reports favorably and with committee amendments Senate Bill No. 981.

As amended by the committee, this bill would: (1) authorize certain law enforcement officials to take custody of animals in cases of suspected animal cruelty violations; and (2) establish various provisions related to the cost of care of animals taken into custody. The bill would also amend the existing law at P.L.2017, c.189 to modify the notice requirements that are applicable whenever a dog, domestic companion animal, or service animal is taken into custody pursuant to P.L.2017, c.189; and to additionally clarify that a licensed shelter, pound, or kennel operating as a shelter or pound, upon retaining custody of an animal seized pursuant to P.L.2017, c.189, will be authorized to provide care to improve the animal's physical or psychological well-being.

Under the amended bill's provisions, a court would be authorized to issue a warrant allowing a humane law enforcement officer or other State or local law enforcement officer to enter onto the private property where an animal is located, and to take custody of the animal, upon a showing of probable cause that there has been an animal cruelty violation. In cases where an officer has a reasonable basis to believe that immediate assistance is required to protect the animal from harm resulting from an animal cruelty violation, the officer would be authorized to enter onto private property and take custody of the animal without a warrant.

The bill would require animals taken into custody in the manner described above to be placed in the care of a licensed shelter, pound, or kennel operating as a shelter or pound. Any such facility having custody of an animal will be authorized to provide care to improve the animal's physical or psychological well-being or to transfer the animal to an animal rescue organization facility or a foster home, whenever it determines that such placement or care is in the animal's best interests. Euthanasia would only be permitted, under the bill, when a licensed veterinarian makes a written determination that the animal is in

intractable and extreme pain and is beyond any reasonable hope of recovery.

The bill would authorize an animal care agency (as defined by the bill) that receives and cares for an animal taken into custody in the manner described above to file a complaint in the Superior Court seeking the reasonable costs of care for the animal. If an animal care agency demonstrates, by a preponderance of evidence, that an animal was taken into custody for the animal's protection from harm, the court would be authorized to award damages to cover the reasonable costs of care for the animal for the period of time that the animal is held in the custody of the animal care agency. If the animal care agency fails to satisfy this evidentiary standard, no damages would be awarded, but the animal would be retained by the animal care agency until the outcome of the animal cruelty proceeding that led to the animal's seizure. If the court determines that an agency's complaint was not filed correctly, the agency is to retain the animal in custody, but may seek a 30-day extension to refile the complaint.

The bill establishes various requirements concerning the way in which damages for the reasonable costs of care for an animal are to be paid. If a person fails to make a payment as required by the bill, ownership of the animal would transfer to the animal care agency.

The bill would provide that, if a person is liable for, and has fully and timely paid, the reasonable costs of an animal's care under the bill and is found not guilty of the alleged criminal animal cruelty violation that led to the animal's seizure, such person would be authorized to immediately repossess the animal and would additionally be entitled to reimbursement, from the animal care agency, for all of the reasonable costs of care paid thereto.

Finally, the bill would authorize a court, upon its own initiative or upon petition by an animal care agency or enforcement agency (as defined by the bill), to order an animal involved in an animal cruelty proceeding to be forfeited, upon conviction, to the animal care or enforcement agency. The court would additionally be authorized to prohibit the convicted person from owning, harboring, residing with, or having custody or control of any other animals for a period of time that the court deems appropriate.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) delete all provisions of the bill related to the tethering and proper confinement of dogs and other animals;

(2) delete the provisions of the bill that would have amended P.L.2017, c.189 (C.4:22-17-7) to authorize a court to issue a warrant for the seizure of a dog, domestic companion animal, or service animal upon the submission thereto of proof that a written correction warning has been issued to the violator; and reinsert the provisions of existing law that authorize the issuance of a warrant for the seizure of such an

animal only upon the submission of proof that a formal summons has been issued to the violator, except in those cases where an officer has a reasonable basis to believe that immediate assistance is required to protect the animal's life, or to prevent injury to the animal, due to a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.);

(3) delete the provisions of the bill that would have required a correction warning, issued for a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.), to be issued in writing;

(4) clarify that the costs of elective surgical procedures are excluded from the "reasonable costs of care" that are required to be financed and reimbursed under the bill's provisions;

(5) provide for the same notice to be issued whenever an animal is taken into custody pursuant to P.L.2017, c.189 (C.4:22-17.1 et seq.) or pursuant to the bill's new provisions, and clarify that such notice is not required to include information about potential euthanasia of the animal;

(6) require an animal care agency, upon petitioning a court for the reasonable costs of care expended thereby in association with the provision of care to an animal seized under the bill's provisions, to establish, by a preponderance of evidence, that the animal was taken into custody for the purposes of protecting the animal from harm (not for the purposes of providing the animal with needed medical attention);

(7) clarify that an animal care agency having custody of a seized animal is prohibited from permanently altering the animal unless such alteration is medically necessary;

(8) clarify that, whenever a person is liable for, and has paid, the reasonable costs of an animal's care, and is found not guilty of the alleged violation that led to the seizure of the animal, such person will be eligible for reimbursement, from the animal care agency, for all of the reasonable costs of care expended thereby, including costs related to necessary veterinary care;

(9) provide that, whenever an animal care or enforcement agency petitions the court for an order requiring the forfeiture of an animal on the basis of a conviction in an animal cruelty proceeding, the agency may simultaneously petition the court for an order prohibiting the convicted person (but not prohibiting any other person who was convicted of conspiring, aiding, or abetting such person) from owning, harboring, residing with, or having custody or control of any other animals for a period of time deemed by the court to be appropriate;

(10) remove a provision of the bill that would have authorized an animal to be euthanized following conviction for an animal cruelty violation, but prior to the issuance of a court order requiring forfeiture of the animal, if a veterinarian has certified that the animal is in intractable and extreme pain and is beyond hope of recovery; and

(11) make technical changes to ensure that the bill's subdivision designations comport with modern bill drafting standards.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 981

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 2023

The Assembly Appropriations Committee reports favorably and with committee amendments Senate Bill No. 981 (1R).

As amended, this bill would: (1) authorize certain law enforcement officials to take custody of animals in cases of suspected animal cruelty violations; and (2) establish various provisions related to the cost of care of animals taken into custody. The bill would also amend the existing law at P.L.2017, c.189 to modify the notice requirements that are applicable whenever a dog, domestic companion animal, or service animal is taken into custody pursuant to P.L.2017, c.189; and to additionally clarify that a licensed shelter, pound, or kennel operating as a shelter or pound, upon retaining custody of an animal seized pursuant to P.L.2017, c.189, will be authorized to provide care to improve the animal's physical or psychological well-being.

Under the bill's provisions, a court would be authorized to issue a warrant allowing a humane law enforcement officer or other State or local law enforcement officer to enter onto the private property where an animal is located, and to take custody of the animal, upon a showing of probable cause that there has been an animal cruelty violation. In cases where an officer has a reasonable basis to believe that immediate assistance is required to protect the animal from harm resulting from an animal cruelty violation, the officer would be authorized to enter onto private property and take custody of the animal without a warrant.

The bill would require animals taken into custody in the manner described above to be placed in the care of a licensed shelter, pound, or kennel operating as a shelter or pound. Any such facility having custody of an animal will be authorized to provide care to improve the animal's physical or psychological well-being or to transfer the animal to an animal rescue organization facility or a foster home, whenever it determines that such placement or care is in the animal's best interests. Euthanasia would only be permitted, under the bill, when a licensed veterinarian makes a written determination that the animal is in

intractable and extreme pain and is beyond any reasonable hope of recovery.

The bill would authorize an animal care agency (as defined by the bill) that receives and cares for an animal taken into custody in the manner described above to file a complaint in the Superior Court seeking the reasonable costs of care for the animal. If an animal care agency demonstrates, by a preponderance of evidence, that an animal was taken into custody for the animal's protection from harm, the court would be authorized to award damages to cover the reasonable costs of care for the animal for the period of time that the animal is held in the custody of the animal care agency. If the animal care agency fails to satisfy this evidentiary standard, no damages would be awarded, but the animal would be retained by the animal care agency until the outcome of the animal cruelty proceeding that led to the animal's seizure. If the court determines that an agency's complaint was not filed correctly, the agency is to retain the animal in custody, but may seek a 30-day extension to refile the complaint.

The bill establishes various requirements concerning the way in which damages for the reasonable costs of care for an animal are to be paid. If a person fails to make a payment as required by the bill, ownership of the animal would transfer to the animal care agency.

The bill would provide that, if a person is liable for, and has fully and timely paid, the reasonable costs of an animal's care under the bill and is found not guilty of the alleged criminal animal cruelty violation that led to the animal's seizure, such person would be authorized to immediately repossess the animal and would additionally be entitled to reimbursement, from the animal care agency, for all of the reasonable costs of care paid thereto.

Finally, the bill would authorize a court, upon its own initiative or upon petition by an animal care agency or enforcement agency (as defined by the bill), to order an animal involved in an animal cruelty proceeding to be forfeited, upon conviction, to the animal care agency. The bill would also authorize a court, upon petition by a co-owner, to transfer custody of the animal to the co-owner upon a determination that certain conditions have been met. The court would additionally be authorized to prohibit the convicted person from owning, harboring, residing with, or having custody or control of any other animals for a period of time that the court deems appropriate.

As reported by the committee, Assembly Bill No. 2354 (2R) is identical to Senate Bill No. 981 (2R), which also was reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments would:

(1) revise the requirements for expert testimony when an animal care agency files a complaint in the Superior Court seeking the reasonable costs of care for the animal to include only testimony on

proper and reasonable care rather than community standards for such care;

(2) authorize a petition to the court at a defendant's sentencing by a co-owner of an animal that is the basis of a conviction for animal cruelty under the bill, to transfer custody of the animal upon a demonstration that the petitioner is a co-owner, does not reside with the defendant, has not been convicted of an animal cruelty violation, and did not have custody of the animal at the time of the violation for which the defendant was convicted; and

(3) authorize a court to transfer custody to a co-owner upon a finding that the co-owner meets the conditions established in the bill and that the transfer is in the best interests of the animal's health, safety, and well-being, and will further the goal of protecting the animal from further harm.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 981

STATE OF NEW JERSEY

DATED: MARCH 14, 2022

The Senate Environment and Energy Committee favorably reports Senate Bill, No. 981.

This bill would: (1) make various changes to P.L.2017, c.189 (C.4:22-17.3 et seq.), which prohibits certain practices of tethering and confining dogs; (2) authorize certain law enforcement officials to take custody of animals in cases of suspected animal cruelty violations; and (3) establish various provisions related to the cost of care of animals taken into custody.

Specifically, concerning P.L.2017, c.189 (C.4:22-17.3 et seq.), the bill would:

(1) provide that it is unlawful to tether a dog on unoccupied or vacant property, or in any structure on such property, unless the dog is (a) accompanied by a person who can see the dog, or (b) is indoors along with a person;

(2) make it unlawful to tether a dog in a manner that exposes the dog to accumulated waste or other debris, precipitation, or flooding;

(3) clarify that proper shelter for a dog, domestic companion animal, or service animal does not include unoccupied or vacant property, or any structure thereon, in which the animal is regularly kept unattended;

(4) provide that a court of competent jurisdiction may issue a warrant concerning a violation of P.L.2017, c.189 (C.4:22-17.3 et seq.) after receiving proof of issuance of a written correction warning pursuant to subsection f. of section 7 of P.L.2017, c.189 (C.4:22-17.7), rather than proof of issuance of a summons;

(5) provide that a court of competent jurisdiction may issue a warrant concerning a violation of P.L.2017, c.189 (C.4:22-17.3 et seq.) without receiving the proof of issuance described above, if immediate assistance is required to protect an animal;

(6) specify that the notice required pursuant to subsection c. of section 7 of P.L.2017, c.189 (C.4:22-17.7): (a) must be sent no later than seven days after an animal has been taken into custody; (b) must be sent to the owner as well as the address from which the animal was taken; and (c) need not contain information concerning the alleged violation that led to the seizure; and

(7) provide that a licensed shelter, pound, or kennel operating as a shelter or pound that has custody or control of a dog, domestic companion animal, or service animal, because of an alleged violation

of P.L.2017, c.189 (C.4:22-17.3 et seq.) may provide care to improve the animal's physical or psychological well-being.

In addition, the bill would authorize a court of competent jurisdiction to issue a warrant to any municipal humane law enforcement officer, humane law enforcement officer of a county society for the prevention of cruelty to animals, or other State or local law enforcement officer to enter onto the private property where an animal is located and take custody of the animal, upon a showing of probable cause that there has been an animal cruelty violation. In cases where an officer has a reasonable basis to believe that, due to an animal cruelty violation, immediate assistance is required, the officer would be authorized to enter a private property and take custody of an animal without a warrant.

The bill would require animals taken into custody in the manner described above to be placed in the care of a licensed shelter, pound, or kennel operating as a shelter or pound. The bill would authorize these facilities to provide care to improve the animal's physical or psychological well-being, or to transfer the animal in an animal rescue organization facility or a foster home, if it determines that such placement or care is in the best interests of the animal. Euthanasia would only be permitted, under the bill, when a licensed veterinarian makes a written determination that the animal is in intractable and extreme pain and beyond any reasonable hope of recovery with reasonable veterinary medical treatment.

The bill would authorize an animal care agency (as defined by the bill) that receives and cares for an animal taken into custody in the manner described above to file a complaint in the Superior Court seeking the reasonable costs of care for the animal. The bill would establish various requirements for the form and content of the complaint, as enumerated in subsection a. of section 6 of the bill. If an animal care agency demonstrates by a preponderance of evidence that an animal was taken into custody either for the animal's protection from harm or for needed medical attention and that the complaint was served in the correct manner, the bill would direct the court to award damages for the reasonable costs of care for the animal for the period that the animal is in the custody of the animal care agency. If the court determines that the animal care agency has not shown by a preponderance of evidence that the animal was taken into custody either for the animal's protection or for needed medical attention, no damages would be awarded but the animal would be retained by the animal care agency until the outcome of the animal cruelty proceeding that led to the animal's seizure. If the court determines that complaint was not filed in the correct manner, the animal would be retained by the animal care agency, which could petition the court for a 30-day extension to refile the complaint.

The bill establishes various requirements concerning the way in which damages for the reasonable costs of care for an animal are to be

paid, as enumerated in subsections c. and d. of section 6 of the bill. If a person fails to make a payment as required by the bill, ownership of the animal would transfer to the animal care agency.

The bill would provide that, if a person liable for the reasonable costs of care under the bill were found not guilty of the alleged criminal animal cruelty offense that led to the seizure of the animal, and if the person had made timely payments of the reasonable costs of care, the person would be authorized to immediately repossess the person's animal and to be reimbursed by the animal care agency for all of the reasonable costs of care, except those related to necessary veterinary care, that were paid by the person to the animal care agency.

Finally, the bill would authorize animal care agencies and enforcement agencies (as defined by the bill) to petition a court presiding over an animal cruelty proceeding for an order requiring the forfeiture of the animal involved in animal cruelty offense to an animal care agency. The court would also be authorized to order that the person convicted of an animal cruelty violation and any person who was convicted for conspiring, aiding, or abetting in the violation that was the basis of the conviction, be prohibited from owning, harboring, or having custody or control of any other animals for a period of time that the court deems appropriate. The bill would also authorize the court to issue an order as described above upon its own initiative.

ASSEMBLY, No. 2354

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 7, 2022

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman ANNETTE CHAPARRO

District 33 (Hudson)

Co-Sponsored by:

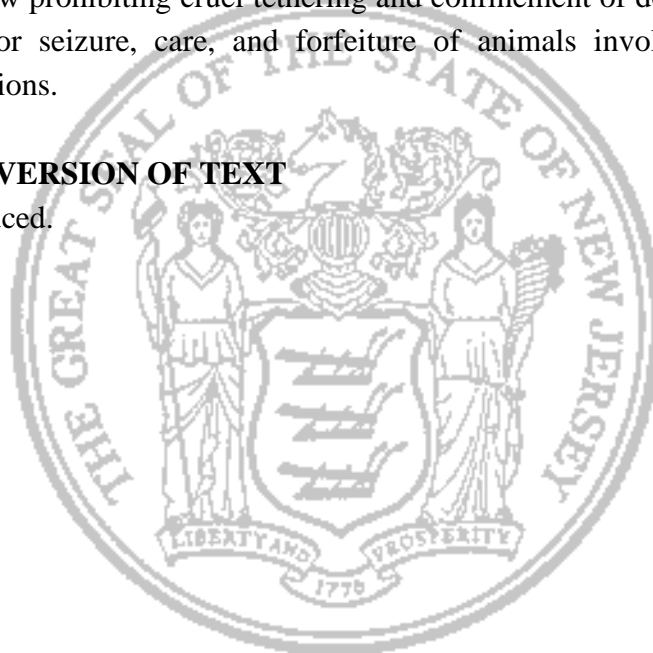
Assemblyman Calabrese, Assemblywomen Jasey, Haider, Park, Assemblymen Giblin, Clifton, Assemblywomen Carter, McCarthy Patrick, Assemblyman Umba, Assemblywoman Reynolds-Jackson, Assemblymen Catalano, McGuckin, Danielsen, Assemblywomen Matsikoudis, Flynn and Assemblyman Mejia

SYNOPSIS

Revises law prohibiting cruel tethering and confinement of dogs; establishes procedures for seizure, care, and forfeiture of animals involved in animal cruelty violations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/24/2022)

1 AN ACT concerning certain animals involved in animal cruelty
2 violations, supplementing Title 4 of the Revised Statutes, and
3 amending P.L.2017, c.189.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. Section 3 of P.L.2017, c.189 (C.4:22-17.3) is amended to
9 read as follows:

10 3. a. It is unlawful for any person to cruelly restrain a dog.

11 b. A person cruelly restrains a dog if the person tethers a dog:

12 (1) which is a nursing female, or which is less than four months
13 old;

14 (2) outdoors between the hours of 11 p.m. and 5 a.m., but this
15 paragraph shall not take effect until 18 months after the date on
16 which **[this act]** P.L.2017, c.189 (C.4:22-17.1 et seq.) takes effect;

17 (3) **[in an]** on unoccupied **[building]** or **[upon]** vacant
18 property, or in any structure thereon;

19 (4) in a manner that does not permit the dog continuous access
20 to water in a sanitary and liquid state whenever the dog is tethered
21 for more than 30 minutes;

22 (5) in a manner that exposes the dog to adverse environmental
23 conditions for more than 30 minutes;

24 (6) by means of a choke collar, prong collar, head harness, or
25 any other type of collar, harness, or similar device other than a
26 properly fitted body harness or buckle-type collar;

27 (7) by using a chain with metal links that are more than one-
28 quarter of an inch thick, or a tether, collar, or harness to which a
29 weight is attached;

30 (8) with a tether on which more than one dog is restrained;

31 (9) with a tether that is less than 15 feet in length or which does
32 not permit the dog to walk at least 15 feet in any one direction; **[or]**

33 (10) with a tether that permits the dog to reach another dog or an
34 object or location that poses a risk of entanglement, strangulation,
35 drowning, or other harm to the health or safety of the dog,
36 including, but not limited to, another dog's tether or a window sill,
37 fence, wall, porch, terrace railing, vehicle, tree, pole, pool, or public
38 road or highway ; or

39 (11) in a manner that exposes the dog to accumulated waste or
40 other debris, precipitation, or flooding.

41 As used in this subsection, “unoccupied or vacant property”
42 means property that is devoid of human inhabitants or occupants, or
43 on which people do not regularly reside or operate a business.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. Paragraphs (2), (3), (9), and (10) of subsection b. of this
2 section shall not apply if any person, including the dog's owner or
3 the person with custody or control of the dog:

4 (1) is in the presence of the dog at all times while the dog is
5 tethered, whether indoors or outdoors; and

6 (2) can see the dog at all times while the dog is tethered, unless
7 the person is blind or visually impaired so that the person cannot
8 see the dog due to the blindness or visual impairment, in which case
9 the person shall remain immediately adjacent to the dog at all times
10 while the dog is tethered.

11 As used in this subsection, "blind" means a person whose vision
12 in the person's better eye with proper correction does not exceed
13 20/200 or who has a field defect in the person's better eye with
14 proper correction which contracts the peripheral field so that the
15 diameter of the visual field subtends an angle no greater than 20
16 degrees; and "visually impaired" means having a condition in which
17 a person has a corrected visual acuity not exceeding 20/70, but not
18 less than 20/200, in the person's better eye, or in which the
19 peripheral field of the person's vision has contracted so that the
20 diameter of the visual field subtends an angle no greater than 40
21 degrees but no less than 20 degrees.

22 d. (1) The owner of a dog shall be liable for a violation of
23 subsections a. and b. of this section that occurs on any property
24 belonging to the owner or on which the owner resides at the time of
25 the violation, regardless of whether the owner is present when the
26 violation occurs.

27 (2) The person with custody or control of a dog who is not the
28 owner of the dog shall be liable for a violation of subsections a. and
29 b. of this section that occurs on any property belonging to the
30 person with custody or control of the dog or on which the person
31 with custody or control of the dog resides at the time of the
32 violation, regardless of whether the person is present when the
33 violation occurs.

34 (3) **【Paragraph】** Paragraphs (3) and (9) of subsection b. of this
35 section shall not apply if the dog is indoors and a person is indoors
36 with the dog.

37 (cf: P.L.2017, c.189, s.3)

38

39 2. Section 5 of P.L.2017, c.189 (C.4:22-17.5) is amended to
40 read as follows:

41 5. a. Proper shelter for a dog, domestic companion animal, or
42 service animal shall be a structure or other type of protection that
43 meets, at a minimum, the following standards and requirements:

44 (1) It provides at all times (a) adequate ventilation to allow the
45 dog, domestic companion animal, or service animal to remain dry
46 and maintain a normal body temperature, (b) access to water in a
47 sanitary and liquid state, (c) exposure to natural or artificial light
48 according to a regular cycle of day and night, (d) sufficient space so

1 that the dog, domestic companion animal, or service animal can
2 easily turn around in a full circle and lie down on the animal's side
3 with limbs outstretched, and (e) when the animal is in a normal
4 sitting position in the proper shelter, the top of the head of the
5 animal cannot touch the ceiling of the proper shelter;

6 (2) It is maintained in a manner to minimize the accumulation of
7 any waste, other debris, precipitation, or other moisture inside,
8 surrounding, and underneath any area or structure providing proper
9 shelter, and to provide reasonable protection from flooding;

10 (3) It is soundly constructed to prevent the sagging or collapse
11 of any part of the structure or protection, and is maintained in good
12 repair with no exposed sharp points or edges;

13 (4) It remains in an upright position at all times;

14 (5) In the event of adverse environmental conditions as set forth
15 in paragraph (1) of the definition of that term in section 1 of **[this**
16 **act]** P.L.2017, c.189 (C.4:22-17.1), it is an enclosed structure that
17 has (a) a solid roof, solid walls with a single opening no larger than
18 necessary to allow the dog, domestic companion animal, or service
19 animal to comfortably enter and exit the structure, and a floor that is
20 not the ground, and (b) insulation, dry bedding, and a windbreak at
21 the entrance that are sufficient to keep the dog, domestic companion
22 animal, or service animal dry and maintain the animal's normal
23 body temperature; and

24 (6) In the event of adverse environmental conditions as set forth
25 in paragraph (2) of the definition of that term in section 1 of **[this**
26 **act]** P.L.2017, c.189 (C.4:22-17.1), it provides the dog, domestic
27 companion animal, or service animal with adequate shade or other
28 cooling area by natural or artificial means to allow the animal to
29 maintain a normal body temperature , including, but not limited to,
30 an open-air canopy, gazebo, tree, shallow pool, or mud wallow,
31 either alone or in combination .

32 b. Any part of the residence of an owner, or other person with
33 custody or control, of a dog, domestic companion animal, or service
34 animal shall be proper shelter for a dog, domestic companion
35 animal, or service animal, provided that the part of the residence,
36 and the use thereof, are in compliance with the requirements for
37 proper shelter set forth in this section.

38 c. Proper shelter for a dog, domestic companion animal, or
39 service animal shall not include:

40 (1) a crawl space under a building or a part of a building, such
41 as under steps, a deck, or a stoop;

42 (2) the space under a vehicle;

43 (3) the inside of a vehicle if the dog, domestic companion
44 animal, or service animal is kept in the vehicle in a manner or for a
45 length of time that a person should reasonably know poses an
46 adverse risk to the health or safety of the animal; **[or]**

1 (4) any structure or protection (a) made from pressure-treated
2 wood which contains the chemicals arsenic or chromium, (b) with a
3 floor consisting of wire or chain-link or having openings through
4 which the paw, hoof, or foot of a dog, domestic companion animal,
5 or service animal, as applicable, can pass, or (c) that is located
6 outdoors and is made from cardboard or other materials that are
7 easily degraded by the elements; or

8 (5) unoccupied or vacant property, or any structure thereon, in
9 which the animal is regularly kept unattended, as "unattended" is
10 defined in section 1 of P.L.2017, c.189 (C.4:22-17.1).

11 As used in this subsection, "unoccupied or vacant property"
12 means property that is devoid of human inhabitants or occupants, or
13 on which people do not regularly reside or operate a business.

14 (cf: P.L.2017, c.189, s.5)

15
16 3. Section 7 of P.L.2017, c.189 (C.4:22-17.7) is amended to
17 read as follows:

18 7. a. Upon a showing of probable cause that there has been a
19 violation of P.L.2017, c.189 (C.4:22-17.1 et seq.) and submission of
20 proof of issuance of a **【summons】** written correction warning
21 pursuant to subsection f. of this section, a court of competent
22 jurisdiction may issue, upon request, a warrant to any municipal
23 humane law enforcement officer, humane law enforcement officer
24 of a county society for the prevention of cruelty to animals, or other
25 State or local law enforcement officer to enter onto the private
26 property where a dog, domestic companion animal, or service
27 animal is located and take **【physical】** custody of the animal, except
28 that if immediate assistance is required to protect or preserve the
29 animal's life or prevent injury to the animal, no proof of issuance of
30 a written correction warning shall be required for the warrant to be
31 issued.

32 b. Notwithstanding the provisions of subsection a. of this
33 section, or any other law, or any rule or regulation adopted pursuant
34 thereto, to the contrary, any municipal humane law enforcement
35 officer, humane law enforcement officer of a county society for the
36 prevention of cruelty to animals, or other State or local law
37 enforcement officer may immediately enter onto private property
38 where a dog, domestic companion animal, or service animal is
39 located and take **【physical】** custody of the animal **【,】** if the officer
40 has a reasonable basis to believe that, due to a violation of
41 P.L.2017, c.189 (C.4:22-17.1 et seq.), immediate assistance is
42 required to protect or preserve the animal's life or prevent injury to
43 the animal.

44 c. Upon taking **【physical】** custody of a dog, domestic
45 companion animal, or service animal pursuant to subsection a. or b.
46 of this section, the person taking **【physical】** custody of the animal
47 shall:

1 (1) post immediately, in a conspicuous place at the location
2 from which the dog, domestic companion animal, or service animal
3 was taken into custody , the notice required pursuant to subsection
4 d. of this section to the owner or person with custody or control of
5 the dog, domestic companion animal, or service animal; and

6 (2) no later than seven days after the dog, domestic companion
7 animal, or service animal has been taken into custody, send by
8 registered or certified mail **【and by ordinary mail】**, or by personal
9 service, the notice described in subsection d. of this section to :

10 (a) the address of the location from which the dog, domestic
11 companion animal, or service animal was taken into **【physical】**
12 custody ; and

13 (b) the owner of record, if the address for the owner of record is
14 different from the location from which the dog, domestic
15 companion animal, or service animal was taken.

16 d. The notice required pursuant to subsection c. of this section
17 shall: (1) provide a description of the dog, domestic companion
18 animal, or service animal; (2) state that the dog, domestic
19 companion animal, or service animal may be euthanized upon a
20 veterinarian's written determination of medical necessity as required
21 by subsection e. of this section; (3) state the statutory authority and
22 reason for taking custody of the dog, domestic companion animal,
23 or service animal; and (4) provide contact information, including at
24 least the name of any applicable office or entity, the name of a
25 person at that office or entity, and a telephone number for the owner
26 or person with custody or control of the dog, domestic companion
27 animal, or service animal to obtain information concerning the
28 animal **【, the alleged violation, and】** including where the animal is
29 **【impounded】** in custody .

30 e. A dog, domestic companion animal, or service animal taken
31 into **【physical】** custody pursuant to subsection a. or b. of this
32 section shall be placed in the care of a licensed shelter, pound, or
33 kennel operating as a shelter or pound to ensure the humane care
34 and treatment of the animal. If, after the dog, domestic companion
35 animal, or service animal has been taken into **【physical】** custody, a
36 licensed veterinarian makes a written determination that the animal
37 is in intractable and extreme pain and beyond any reasonable hope
38 of recovery with reasonable veterinary medical treatment, the
39 animal may be euthanized. At any time while the licensed shelter,
40 pound, or kennel operating as a shelter or pound has custody or
41 control of the dog, domestic companion animal, or service animal, it
42 may place the animal in an animal rescue organization facility or a
43 foster home , or otherwise provide care to improve the animal's
44 physical or psychological well-being, if it determines the placement
45 or care is in the best interest of the animal , except that euthanasia
46 shall be permitted only under the limited circumstances specified in
47 this subsection .

1 f. A person shall be issued a written correction warning prior
2 to being cited for a violation of P.L.2017, c.189 (C.4:22-17.1 et
3 seq.) unless the dog, domestic companion animal, or service animal
4 involved in the violation was seized under an emergency warrant
5 issued pursuant to subsection a. of this section or seized
6 immediately pursuant to subsection b. of this section. A summons
7 **【shall】** may be served on the alleged violator **【as soon as**
8 **practicable】** if:

9 (1) after the seven days have elapsed from the date a written
10 correction warning is issued, no correction has been made; **【or】**

11 (2) the dog, domestic companion animal, or service animal
12 involved in the violation was seized immediately pursuant to
13 subsection b. of this section; or

14 (3) the dog, domestic companion animal, or service animal
15 involved in the violation was seized under an emergency warrant
16 issued pursuant to subsection a. of this section.

17 If the alleged violator is not the owner of the dog, domestic
18 companion animal, or service animal, the person issuing the written
19 correction warning or summons, as applicable, shall also notify the
20 owner of the animal of the violation and provide the owner with a
21 copy of the issued written correction warning or summons, as
22 applicable.

23 g. Any summons issued for a violation of P.L.2017, c.189
24 (C.4:22-17.1 et seq.) shall contain:

25 (1) a description of the violation and statutory authority; and

26 (2) contact information identifying, at a minimum (a) the name
27 of the investigating agency or office, and (b) the name of the officer
28 issuing the summons or investigating the alleged violation.

29 h. Any municipal humane law enforcement officer, humane
30 law enforcement officer of a county society for the prevention of
31 cruelty to animals, or other State or local law enforcement officer
32 issuing a summons for a violation of P.L.2017, c.189 (C.4:22-17.1
33 et seq.) shall also serve on the alleged violator, with the summons, a
34 written notice of:

35 (1) the right to voluntarily forfeit ownership or custody of the
36 dog, domestic companion animal, or service animal;

37 (2) the action or actions required for compliance;

38 (3) a demand for immediate compliance; and

39 (4) a telephone number for the investigating agency or office
40 and the investigating officer or agent.

41 i. Any municipal humane law enforcement officer, humane
42 law enforcement officer of a county society for the prevention of
43 cruelty to animals, or other State or local law enforcement officer
44 may petition a court of competent jurisdiction to have a dog,
45 domestic companion animal, or service animal confiscated, if not
46 previously seized, and forfeited upon the person being found guilty
47 of, or liable for, a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.).
48 Upon a finding that continued possession of the dog, domestic

1 companion animal, or service animal by the owner or other person
2 authorized to have custody or control of the animal poses a threat to
3 the health or safety of the animal, the court shall order that the
4 animal be forfeited, placed in an animal rescue organization facility,
5 shelter, pound, or kennel operating as a shelter or pound, and made
6 available for adoption.

7 j. A person found guilty of, or liable for, a violation of any
8 provision of P.L.2017, c.189 (C.4:22-17.1 et seq.) shall be
9 responsible for, and pay, the reasonable costs of caring for the dog,
10 domestic companion animal, or service animal from the date on
11 which **[physical]** custody of the animal was taken pursuant to this
12 section until the date the animal is surrendered, forfeited, returned,
13 or euthanized, including, but not limited to, the cost of transporting,
14 sheltering, and feeding the animal, the cost of providing the animal
15 with necessary veterinary care, and if the animal is euthanized, the
16 cost of the euthanasia.
17 (cf: P.L.2019, c.83, s.1)

18

19 4. (New section) As used in sections 4 through 7 of P.L. ,
20 c. (C.) (pending before the Legislature as this bill):

21 "Animal care agency" means a shelter, pound, kennel, or animal
22 rescue organization, as those terms are defined in section 1 of
23 P.L.1941, c.151 (C.4:19-15.1), or a humane society or other
24 organization that has temporary custody of an animal.

25 "Animal cruelty violation" means a civil or criminal violation of
26 chapter 19 or 22 of Title 4 of the Revised Statutes, Title 2C of the
27 New Jersey Statutes, or any other State law concerning animal
28 cruelty.

29 "Enforcement agency" means any agency, department,
30 organization, or count society for the prevention of cruelty to
31 animals, or any agent, humane law enforcement officer, or
32 representative thereof, involved in law enforcement or animal
33 control, or the monitoring of animal welfare and animal cruelty
34 violations.

35 "Reasonable costs of care" means (1) the costs of shelter, food,
36 water, and bedding necessary to house an animal, (2) the costs of
37 necessary care to improve an animal's psychological well-being,
38 including, but not limited to, training and enrichments designed to
39 provide mental and physical stimulation, and (3) the costs of
40 necessary veterinary care for an animal, including, but not limited
41 to, surgical intervention, medicine, vaccinations, and euthanasia and
42 disposal costs, as determined necessary by a licensed veterinarian.

43

44 5. (New section) a. Notwithstanding the provisions of any
45 other law, or any rule or regulation adopted pursuant thereto, to the
46 contrary, upon a showing of probable cause that there has been an
47 animal cruelty violation, a court of competent jurisdiction may
48 issue, upon request, a warrant to any municipal humane law

1 enforcement officer, humane law enforcement officer of a county
2 society for the prevention of cruelty to animals, or other State or
3 local law enforcement officer to enter onto the private property
4 where an animal is located and take custody of the animal.

5 b. Notwithstanding the provisions of subsection a. of this
6 section, or any other law, or any rule or regulation adopted pursuant
7 thereto, to the contrary, a municipal humane law enforcement
8 officer, humane law enforcement officer of a county society for the
9 prevention of cruelty to animals, or other State or local law
10 enforcement officer may immediately enter onto private property
11 where an animal is located and take custody of an animal if the
12 officer has a reasonable basis to believe that, due to an animal
13 cruelty violation, immediate assistance is required to protect or
14 preserve the animal's life or prevent injury to the animal.

15 c. An animal taken into custody pursuant to subsection a. or b.
16 of this section shall be placed in the care of a licensed shelter,
17 pound, or kennel operating as a shelter or pound to ensure the
18 humane care and treatment of the animal. If, after the animal has
19 been taken into custody, a licensed veterinarian makes a written
20 determination that the animal is in intractable and extreme pain and
21 beyond any reasonable hope of recovery with reasonable veterinary
22 medical treatment, the animal may be euthanized. At any time
23 while the licensed shelter, pound, or kennel operating as a shelter or
24 pound has custody or control of the animal, it may place the animal
25 in an animal rescue organization facility or a foster home, or
26 otherwise provide care to improve the animal's physical or
27 psychological well-being, if it determines that such placement or
28 care is in the best interests of the animal, except that euthanasia will
29 be permitted only under the limited circumstances specified in this
30 subsection.

31

32 6. (New section) a. An animal care agency that takes custody of
33 an animal pursuant to section 5 of P.L. , c. (C.) (pending
34 before the Legislature as this bill), or an authorized agent of the animal
35 care agency, including an attorney prosecuting an animal cruelty
36 violation on behalf of a municipality or county, may, no later than 20
37 days after the animal is taken into custody, file an action in the
38 Superior Court seeking the reasonable costs of care for the animal
39 from the animal's owner, or, if the owner is not known to the plaintiff,
40 the person from whom the animal was taken. A copy of the complaint
41 shall be served upon the animal's owner, or, if the owner is not known
42 to the plaintiff, to the person from whom the animal was taken in
43 accordance with the rules of the court. The complaint shall include:

44 (1) the name, business address, and telephone number of the
45 animal care agency that has custody of the animal;

46 (2) a description of the animal taken into custody, including a
47 licensed veterinarian's assessment of the animal's condition and needs;

1 (3) a statement of the actual and estimated reasonable costs of care
2 for the animal;

3 (4) a statement that, at any time after the animal has been taken
4 into custody, the animal's owner may relinquish ownership of the
5 animal to the enforcement agency that seized the animal or to the
6 animal care agency with custody of the animal;

7 (5) a statement that, if the animal's owner or the person from
8 whom the animal was taken fails to pay any portion of the reasonable
9 costs of care for the animal, as established by the court, when due,
10 ownership of the animal shall immediately transfer to the animal care
11 agency with custody of the animal; and

12 (6) a plain language summary of the provisions of P.L. , c. (C.
13) (pending before the Legislature as this bill), to be prepared by the
14 Attorney General's Office and distributed to animal care agencies in
15 the State.

16 b. Upon receipt of a complaint filed pursuant to subsection a. of
17 this section, the court shall schedule a hearing on the complaint to be
18 conducted no later than 30 days after the date on which the complaint
19 is filed with the court. Failure by the court to hold a timely hearing
20 pursuant to this subsection shall not affect the disposition of the animal
21 under the provisions of P.L. , c. (C.) (pending before the
22 Legislature as this bill) or the disposition of any pending animal
23 cruelty case against the person from whom an animal was seized.

24 c. At the hearing on a complaint filed pursuant to subsection a. of
25 this section, the plaintiff shall establish by a preponderance of the
26 evidence that the animal was taken into custody either for the animal's
27 protection from harm or for needed medical attention. The court may
28 consider testimony from the agent or officer who seized the animal
29 and other witnesses as to the condition of the animal when seized and
30 as to the conditions under which the animal or other animals in the
31 household were kept, testimony and evidence as to the veterinary care
32 provided to the animal, expert testimony as to the community
33 standards for proper and reasonable care of the same type of animal,
34 testimony from any witnesses as to the prior treatment or condition of
35 this or other animals in the custody of the owner or person from whom
36 the animal was taken, or any other evidence the court considers to be
37 material or relevant. The plaintiff shall also demonstrate that the
38 animal's owner, or, if the animal's owner is not known, the person
39 from whom the animal was taken, was served with a copy of the
40 complaint as required pursuant to subsection a. of this section.

41 (1) If the court determines that the plaintiff has demonstrated by a
42 preponderance of the evidence that the animal was taken into custody
43 either for the animal's protection or for needed medical attention and
44 that the service and content of the complaint met the requirements of
45 subsection a. of this section, the court shall award damages for the
46 reasonable costs of care for the animal for the period the animal is in
47 the custody and care of the animal care agency against the animal's
48 owner or the person from whom the animal was taken, as appropriate.

1 The costs shall be calculated from the date the animal was taken into
2 custody by the enforcement agency or animal care agency, whichever
3 is earlier.

4 (2) If the court determines that the plaintiff has not shown by a
5 preponderance of the evidence that an animal was taken into custody
6 either for the animal's protection or for needed medical attention, the
7 court shall not award damages for the reasonable costs of care, but the
8 animal shall remain in the custody of the animal care agency during
9 the pendency of the criminal investigation and proceeding related to
10 the alleged criminal offense that led to the seizure of the animal.

11 (3) If the court determines that the service or content of the
12 complaint did not meet the requirements of subsection a. of this
13 section, the animal shall remain in the custody of the animal care
14 agency during the pendency of the criminal investigation and
15 proceeding related to the alleged criminal offense that led to the
16 seizure of the animal. The plaintiff may petition the court for a thirty-
17 day extension to refile the complaint.

18 d. Unless otherwise ordered by the court, no later than seven days
19 after the issuance of a court order pursuant to subsection c. of this
20 section, the person found liable for the reasonable costs of care shall
21 pay the animal care agency the full amount, as required by the court,
22 for the respective 30-day period. The person shall make a new
23 payment in the same amount every 30 days until:

24 (1) the owner voluntarily transfers ownership of the animal to the
25 animal care agency;

26 (2) ownership of the animal is transferred to the animal care
27 agency pursuant to subsection f. of this section;

28 (3) the animal is euthanized pursuant to subsection g. of this
29 section; or

30 (4) final disposition of the proceeding related to the alleged
31 criminal offense that led to the seizure of the animal, including
32 forfeiture of the animal pursuant to section 7 of P.L. , c. (C.)
33 (pending before the Legislature as this bill) or any other law.

34 Upon a change in the animal's ownership status pursuant to
35 paragraphs (1) through (4) of this subsection, any unexpended amounts
36 paid by the person to the animal care agency shall be returned to the
37 person.

38 e. If the person against whom a judgment pursuant to subsection
39 e. of this section was entered fails to make a payment for the
40 reasonable costs of care for an animal within seven days of the date of
41 issuance of the court order and every 30 days thereafter as required
42 pursuant to subsection e. of this section, ownership of the animal shall
43 immediately transfer, by operation of law, to the animal care agency
44 with custody of the animal, and the animal care agency shall obtain all
45 rights and privilege in and over the animal.

46 f. An animal care agency shall not sell, euthanize, offer for
47 adoption, or otherwise dispose of an animal if the person liable for the
48 reasonable costs of care for the animal makes timely payments of such

1 costs to the animal care agency as required by the court; provided,
2 however, that an animal care agency may euthanize an animal at any
3 time if a licensed veterinarian makes a written determination that the
4 animal is experiencing intractable and extreme pain and is beyond any
5 reasonable hope of recovery.

6 g. If a person liable for the reasonable costs of care pursuant to
7 this section is found not guilty of the alleged criminal animal cruelty
8 offense that led to the seizure of the animal, and if the person has made
9 timely payments of the reasonable costs of care pursuant to this
10 section, the person shall have the right to immediately repossess the
11 person's animal and to be reimbursed by the animal care agency for all
12 of the reasonable costs of care, except those related to necessary
13 veterinary care, that were paid by the person to the animal care agency.

14 h. The result of any hearing held pursuant to this section, and any
15 statement made by a party in the course of such a hearing, shall not be
16 admissible in any criminal prosecution for an animal cruelty violation.

17 i. If the owner or the person from whom an animal was taken, as
18 applicable, fails to appear for a hearing for the reasonable costs of care
19 for an animal pursuant to this section, the owner or other person shall
20 be liable for the costs, and all other provisions of this section shall
21 remain in force.

22 j. As used in this section, "animal" means any vertebrate other
23 than humans, except that, other than animals used in connection with a
24 violation of R.S.4:22-24 and equine animals, "animal" shall not
25 include "domestic livestock" as defined by section 1 of P.L.1995,
26 c.311 (C.4:22-16.1).

27
28 7. (New section) a. Notwithstanding the provisions of any
29 other law, or any rule or regulation adopted pursuant thereto, to the
30 contrary, an animal care agency or enforcement agency may, upon
31 the conviction of a person for an animal cruelty violation, petition
32 the court in the animal cruelty proceeding for an order requiring
33 forfeiture of the animal that is the basis of the conviction.

34 b. At the sentencing of a person convicted of an animal cruelty
35 violation, the court, upon its own initiative or in response to a
36 petition filed pursuant to subsection a. of this section, and in
37 addition to any other penalties that may be imposed on the
38 defendant, may:

39 (1) adjudge an animal that is the basis of the conviction for an
40 animal cruelty violation forfeited to the animal care agency with
41 custody of the animal, and invest all rights and privileges over the
42 animal in the animal care agency; and

43 (2) order that the person convicted of an animal cruelty violation
44 and any person who was convicted for conspiring, aiding, or
45 abetting in the violation that was the basis of the conviction, shall
46 not own, harbor, or have custody or control of any other animals for
47 a period of time that the court deems appropriate.

1 c. Any animal found to be in intractable and extreme pain and
2 that is beyond any reasonable hope of recovery, as certified to the
3 court in writing by a licensed veterinarian, may be euthanized
4 immediately and prior to the issuance of a court order.

5
6 8. This act shall take effect immediately.
7

8
9 STATEMENT
10

11 This bill would: (1) make various changes to P.L.2017, c.189
12 (C.4:22-17.3 et seq.), which prohibits certain practices of tethering
13 and confining dogs; (2) authorize certain law enforcement officials
14 to take custody of animals in cases of suspected animal cruelty
15 violations; and (3) establish various provisions related to the cost of
16 care of animals taken into custody.

17 Specifically, concerning P.L.2017, c.189, the bill would:

18 (1) provide that it is unlawful to tether a dog on unoccupied or
19 vacant property, or in any structure on such property, unless the dog
20 is (a) accompanied by a person who can see the dog, or (b) is
21 indoors along with a person;

22 (2) make it unlawful to tether a dog in a manner that exposes the
23 dog to accumulated waste or other debris, precipitation, or flooding;

24 (3) clarify that proper shelter for a dog, domestic companion
25 animal, or service animal does not include unoccupied or vacant
26 property, or any structure thereon, in which the animal is regularly
27 kept unattended;

28 (4) provide that a court of competent jurisdiction may issue a
29 warrant concerning a violation of P.L.2017, c.189 after receiving
30 proof of issuance of a written correction warning pursuant to
31 subsection f. of section 7 of P.L.2017, c.189 (C.4:22-17.7), rather
32 than proof of issuance of a summons;

33 (5) provide that a court of competent jurisdiction may issue a
34 warrant concerning a violation of P.L.2017, c.189 without receiving
35 the proof of issuance described above, if immediate assistance is
36 required to protect an animal;

37 (6) specify that the notice required pursuant to subsection c. of
38 section 7 of P.L.2017, c.189 (C.4:22-17.7): (a) must be sent no
39 later than seven days after an animal has been taken into custody;
40 (b) must be sent to the owner as well as the address from which the
41 animal was taken; and (c) need not contain information concerning
42 the alleged violation that led to the seizure; and

43 (7) provide that a licensed shelter, pound, or kennel operating as
44 a shelter or pound that has custody or control of a dog, domestic
45 companion animal, or service animal, because of an alleged
46 violation of P.L.2017, c.189 may provide care to improve the
47 animal's physical or psychological well-being.

1 In addition, the bill would authorize a court of competent
2 jurisdiction to issue a warrant to any municipal humane law
3 enforcement officer, humane law enforcement officer of a county
4 society for the prevention of cruelty to animals, or other State or
5 local law enforcement officer to enter onto the private property
6 where an animal is located and take custody of the animal, upon a
7 showing of probable cause that there has been an animal cruelty
8 violation. In cases where an officer has a reasonable basis to
9 believe that, due to an animal cruelty violation, immediate
10 assistance is required, the officer would be authorized to enter a
11 private property and take custody of an animal without a warrant.

12 The bill would require animals taken into custody in the manner
13 described above to be placed in the care of a licensed shelter,
14 pound, or kennel operating as a shelter or pound. The bill would
15 authorize these facilities to provide care to improve the animal's
16 physical or psychological well-being, or to transfer the animal in an
17 animal rescue organization facility or a foster home, if it determines
18 that such placement or care is in the best interests of the animal.
19 Euthanasia would only be permitted, under the bill, when a licensed
20 veterinarian makes a written determination that the animal is in
21 intractable and extreme pain and beyond any reasonable hope of
22 recovery with reasonable veterinary medical treatment.

23 The bill would authorize an animal care agency (as defined by
24 the bill) that receives and cares for an animal taken into custody in
25 the manner described above to file a complaint in the Superior
26 Court seeking the reasonable costs of care for the animal. The bill
27 would establish various requirements for the form and content of
28 the complaint, as enumerated in subsection a. of section 6 of the
29 bill. If an animal care agency demonstrates by a preponderance of
30 evidence that an animal was taken into custody either for the
31 animal's protection from harm or for needed medical attention and
32 that the complaint was served in the correct manner, the bill would
33 direct the court to award damages for the reasonable costs of care
34 for the animal for the period that the animal is in the custody of the
35 animal care agency. If the court determines that the animal care
36 agency has not shown by a preponderance of evidence that the
37 animal was taken into custody either for the animal's protection or
38 for needed medical attention, no damages would be awarded but the
39 animal would be retained by the animal care agency until the
40 outcome of the animal cruelty proceeding that led to the animal's
41 seizure. If the court determines that complaint was not filed in the
42 correct manner, the animal would be retained by the animal care
43 agency, which could petition the court for a 30-day extension to
44 refile the complaint.

45 The bill establishes various requirements concerning the way in
46 which damages for the reasonable costs of care for an animal are to
47 be paid, as enumerated in subsections c. and d. of section 6 of the

1 bill. If a person fails to make a payment as required by the bill,
2 ownership of the animal would transfer to the animal care agency.

3 The bill would provide that, if a person liable for the reasonable
4 costs of care under the bill were found not guilty of the alleged
5 criminal animal cruelty offense that led to the seizure of the animal,
6 and if the person had made timely payments of the reasonable costs
7 of care, the person would be authorized to immediately repossess
8 the person's animal and to be reimbursed by the animal care agency
9 for all of the reasonable costs of care, except those related to
10 necessary veterinary care, that were paid by the person to the
11 animal care agency.

12 Finally, the bill would authorize animal care agencies and
13 enforcement agencies (as defined by the bill) to petition a court
14 presiding over an animal cruelty proceeding for an order requiring
15 the forfeiture of the animal involved in animal cruelty offense to an
16 animal care agency. The court would also be authorized to order
17 that the person convicted of an animal cruelty violation and any
18 person who was convicted for conspiring, aiding, or abetting in the
19 violation that was the basis of the conviction, be prohibited from
20 owning, harboring, or having custody or control of any other
21 animals for a period of time that the court deems appropriate. The
22 bill would also authorize the court to issue an order as described
23 above upon its own initiative.

ASSEMBLY AGRICULTURE AND FOOD SECURITY
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 2354

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 23, 2023

The Assembly Agriculture and Food Security Committee reports favorably and with committee amendments Assembly Bill No. 2354.

As amended by the committee, this bill would: (1) authorize certain law enforcement officials to take custody of animals in cases of suspected animal cruelty violations; and (2) establish various provisions related to the cost of care of animals taken into custody. The bill would also amend the existing law at P.L.2017, c.189 to modify the notice requirements that are applicable whenever a dog, domestic companion animal, or service animal is taken into custody pursuant to P.L.2017, c.189; and to additionally clarify that a licensed shelter, pound, or kennel operating as a shelter or pound, upon retaining custody of an animal seized pursuant to P.L.2017, c.189, will be authorized to provide care to improve the animal's physical or psychological well-being.

Under the amended bill's provisions, a court would be authorized to issue a warrant allowing a humane law enforcement officer or other State or local law enforcement officer to enter onto the private property where an animal is located, and to take custody of the animal, upon a showing of probable cause that there has been an animal cruelty violation. In cases where an officer has a reasonable basis to believe that immediate assistance is required to protect the animal from harm resulting from an animal cruelty violation, the officer would be authorized to enter onto private property and take custody of the animal without a warrant.

The bill would require animals taken into custody in the manner described above to be placed in the care of a licensed shelter, pound, or kennel operating as a shelter or pound. Any such facility having custody of an animal will be authorized to provide care to improve the animal's physical or psychological well-being or to transfer the animal to an animal rescue organization facility or a foster home, whenever it determines that such placement or care is in the animal's best interests. Euthanasia would only be permitted, under the bill, when a licensed veterinarian makes a written determination that the animal is in

intractable and extreme pain and is beyond any reasonable hope of recovery.

The bill would authorize an animal care agency (as defined by the bill) that receives and cares for an animal taken into custody in the manner described above to file a complaint in the Superior Court seeking the reasonable costs of care for the animal. If an animal care agency demonstrates, by a preponderance of evidence, that an animal was taken into custody for the animal's protection from harm, the court would be authorized to award damages to cover the reasonable costs of care for the animal for the period of time that the animal is held in the custody of the animal care agency. If the animal care agency fails to satisfy this evidentiary standard, no damages would be awarded, but the animal would be retained by the animal care agency until the outcome of the animal cruelty proceeding that led to the animal's seizure. If the court determines that an agency's complaint was not filed correctly, the agency is to retain the animal in custody, but may seek a 30-day extension to refile the complaint.

The bill establishes various requirements concerning the way in which damages for the reasonable costs of care for an animal are to be paid. If a person fails to make a payment as required by the bill, ownership of the animal would transfer to the animal care agency.

The bill would provide that, if a person is liable for, and has fully and timely paid, the reasonable costs of an animal's care under the bill and is found not guilty of the alleged criminal animal cruelty violation that led to the animal's seizure, such person would be authorized to immediately repossess the animal and would additionally be entitled to reimbursement, from the animal care agency, for all of the reasonable costs of care paid thereto.

Finally, the bill would authorize a court, upon its own initiative or upon petition by an animal care agency or enforcement agency (as defined by the bill), to order an animal involved in an animal cruelty proceeding to be forfeited, upon conviction, to the animal care or enforcement agency. The court would additionally be authorized to prohibit the convicted person from owning, harboring, residing with, or having custody or control of any other animals for a period of time that the court deems appropriate.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) delete all provisions of the bill related to the tethering and proper confinement of dogs and other animals;

(2) delete the provisions of the bill that would have amended P.L.2017, c.189 (C.4:22-17-7) to authorize a court to issue a warrant for the seizure of a dog, domestic companion animal, or service animal upon the submission thereto of proof that a written correction warning has been issued to the violator; and reinsert the provisions of existing law that authorize the issuance of a warrant for the seizure of such an

animal only upon the submission of proof that a formal summons has been issued to the violator, except in those cases where an officer has a reasonable basis to believe that immediate assistance is required to protect the animal's life, or to prevent injury to the animal, due to a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.);

(3) delete the provisions of the bill that would have required a correction warning, issued for a violation of P.L.2017, c.189 (C.4:22-17.1 et seq.), to be issued in writing;

(4) clarify that the costs of elective surgical procedures are excluded from the "reasonable costs of care" that are required to be financed and reimbursed under the bill's provisions;

(5) provide for the same notice to be issued whenever an animal is taken into custody pursuant to P.L.2017, c.189 (C.4:22-17.1 et seq.) or pursuant to the bill's new provisions, and clarify that such notice is not required to include information about potential euthanasia of the animal;

(6) require an animal care agency, upon petitioning a court for the reasonable costs of care expended thereby in association with the provision of care to an animal seized under the bill's provisions, to establish, by a preponderance of evidence, that the animal was taken into custody for the purposes of protecting the animal from harm (not for the purposes of providing the animal with needed medical attention);

(7) clarify that an animal care agency having custody of a seized animal is prohibited from permanently altering the animal unless such alteration is medically necessary;

(8) clarify that, whenever a person is liable for, and has paid, the reasonable costs of an animal's care, and is found not guilty of the alleged violation that led to the seizure of the animal, such person will be eligible for reimbursement, from the animal care agency, for all of the reasonable costs of care expended thereby, including costs related to necessary veterinary care;

(9) provide that, whenever an animal care or enforcement agency petitions the court for an order requiring the forfeiture of an animal on the basis of a conviction in an animal cruelty proceeding, the agency may simultaneously petition the court for an order prohibiting the convicted person (but not prohibiting any other person who was convicted of conspiring, aiding, or abetting such person) from owning, harboring, residing with, or having custody or control of any other animals for a period of time deemed by the court to be appropriate;

(10) remove a provision of the bill that would have authorized an animal to be euthanized following conviction for an animal cruelty violation, but prior to the issuance of a court order requiring forfeiture of the animal, if a veterinarian has certified that the animal is in intractable and extreme pain and is beyond hope of recovery; and

(11) make technical changes to ensure that the bill's subdivision designations comport with modern bill drafting standards.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2354

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 2023

The Assembly Appropriations Committee favorably reports and with committee amendments Assembly Bill No. 2354 (1R).

As amended, this bill would: (1) authorize certain law enforcement officials to take custody of animals in cases of suspected animal cruelty violations; and (2) establish various provisions related to the cost of care of animals taken into custody. The bill would also amend the existing law at P.L.2017, c.189 to modify the notice requirements that are applicable whenever a dog, domestic companion animal, or service animal is taken into custody pursuant to P.L.2017, c.189; and to additionally clarify that a licensed shelter, pound, or kennel operating as a shelter or pound, upon retaining custody of an animal seized pursuant to P.L.2017, c.189, will be authorized to provide care to improve the animal's physical or psychological well-being.

Under the bill's provisions, a court would be authorized to issue a warrant allowing a humane law enforcement officer or other State or local law enforcement officer to enter onto the private property where an animal is located, and to take custody of the animal, upon a showing of probable cause that there has been an animal cruelty violation. In cases where an officer has a reasonable basis to believe that immediate assistance is required to protect the animal from harm resulting from an animal cruelty violation, the officer would be authorized to enter onto private property and take custody of the animal without a warrant.

The bill would require animals taken into custody in the manner described above to be placed in the care of a licensed shelter, pound, or kennel operating as a shelter or pound. Any such facility having custody of an animal will be authorized to provide care to improve the animal's physical or psychological well-being or to transfer the animal to an animal rescue organization facility or a foster home, whenever it determines that such placement or care is in the animal's best interests. Euthanasia would only be permitted, under the bill, when a licensed veterinarian makes a written determination that the animal is in intractable and extreme pain and is beyond any reasonable hope of recovery.

The bill would authorize an animal care agency (as defined by the bill) that receives and cares for an animal taken into custody in the manner described above to file a complaint in the Superior Court seeking the reasonable costs of care for the animal. If an animal care agency demonstrates, by a preponderance of evidence, that an animal was taken into custody for the animal's protection from harm, the court would be authorized to award damages to cover the reasonable costs of care for the animal for the period of time that the animal is held in the custody of the animal care agency. If the animal care agency fails to satisfy this evidentiary standard, no damages would be awarded, but the animal would be retained by the animal care agency until the outcome of the animal cruelty proceeding that led to the animal's seizure. If the court determines that an agency's complaint was not filed correctly, the agency is to retain the animal in custody, but may seek a 30-day extension to refile the complaint.

The bill establishes various requirements concerning the way in which damages for the reasonable costs of care for an animal are to be paid. If a person fails to make a payment as required by the bill, ownership of the animal would transfer to the animal care agency.

The bill would provide that, if a person is liable for, and has fully and timely paid, the reasonable costs of an animal's care under the bill and is found not guilty of the alleged criminal animal cruelty violation that led to the animal's seizure, such person would be authorized to immediately repossess the animal and would additionally be entitled to reimbursement, from the animal care agency, for all of the reasonable costs of care paid thereto.

Finally, the bill would authorize a court, upon its own initiative or upon petition by an animal care agency or enforcement agency (as defined by the bill), to order an animal involved in an animal cruelty proceeding to be forfeited, upon conviction, to the animal care agency. The bill would also authorize a court, upon petition by a co-owner, to transfer custody of the animal to the co-owner upon a determination that certain conditions have been met. The court would additionally be authorized to prohibit the convicted person from owning, harboring, residing with, or having custody or control of any other animals for a period of time that the court deems appropriate.

As reported by the committee, Assembly Bill No. 2354 (2R) is identical to Senate Bill No. 981 (2R), which also was reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments would:

(1) revise the requirements for expert testimony when an animal care agency files a complaint in the Superior Court seeking the reasonable costs of care for the animal to include only testimony on proper and reasonable care rather than community standards for such care;

(2) authorize a petition to the court at a defendant's sentencing by a co-owner of an animal that is the basis of a conviction for animal cruelty under the bill, to transfer custody of the animal upon a demonstration that the petitioner is a co-owner, does not reside with the defendant, has not been convicted of an animal cruelty violation, and did not have custody of the animal at the time of the violation for which the defendant was convicted; and

(3) authorize a court to transfer custody to a co-owner upon a finding that the co-owner meets the conditions established in the bill and that the transfer is in the best interests of the animal's health, safety, and well-being, and will further the goal of protecting the animal from further harm.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

Governor Murphy Signs Legislation Strengthening Protections for Animals Involved in Cruelty Violations

07/26/2023

TRENTON – Governor Phil Murphy today signed legislation (S-981/A-2354) strengthening protections for animals by establishing procedures for the seizure, care, and forfeiture of animals involved in animal cruelty violations.

"I am proud to sign legislation that will not only strengthen protections for animals in New Jersey, but ensure that animals who have suffered cruel treatment are cared for swiftly and sufficiently," said **Governor Murphy**. "These safeguards and procedures will enable law enforcement to intercept cases of animal cruelty and make certain that those animals are given a second chance."

Under the legislation, a court is authorized to issue a warrant allowing a humane law enforcement officer or other State or local law enforcement officer to enter private property where an animal is located, and to take custody of the animal, upon a showing of probable cause that there has been an animal cruelty violation. The legislation also states that in cases where an officer has a reasonable basis to believe that immediate assistance is required to protect the animal from harm, the officer would be authorized to enter onto private property to take custody of the animal without a warrant.

Further, the bill requires animals taken into custody be placed in the care of a licensed shelter, pound, or kennel operating as a shelter or pound. Any such facility having custody of an animal will be authorized to provide care to improve the animal's physical or psychological well-being or to transfer the animal to an animal rescue organization facility or a foster home whenever it determines that such placement or care is in the animal's best interest. The bill would authorize an animal care agency that receives and cares for an animal taken into custody in the manner described above to file a complaint in the Superior Court seeking the reasonable costs of care for the animal.

Primary Sponsors of S-981/A-2354 include Senators Patrick Diegnan Jr. and Vin Gopal, and Assemblymembers Raj Mukherji, Daniel Benson, and Annette Chaparro.

"This legislation provides protection to pets who are victims of neglectful or abusive owners," said **Senator Patrick Diegnan**. "By holding owners responsible for the food, housing, and veterinary expenses associated with sheltering animal cruelty victims, this law will also help ensure at-risk animals receive the care they need while simultaneously relieving shelter operators of significant added costs. This is truly a gamechanger for New Jersey's shelters and the animals they protect."

"Caring for victims of animal cruelty can be costly and burdensome for local animal shelters," said **Assemblyman Raj Mukherji**. "Some animals remain stuck in legal limbo for several months or even years while their cases are pending before the court. Because these animals are 'living evidence' and still belong to the accused, they cannot be adopted until a verdict is made, which depletes already limited shelter resources. This law empowers shelters to file complaints that hold an animal's owner—and alleged abuser—responsible for the costs of their care."

"Crucially, multiple layers of due process will protect owners while also holding them accountable for the care of animals they still own; in particular, the due process requirements embedded in current statute, the NJ and US Constitutions, and S-981 itself will protect both owner rights and the welfare of vulnerable animals," said **the Lesniak Institute for Animal Leadership President and former Senator Ray Lesniak and Policy Advisor Debora M. Bresch in a joint statement**. "There has been a continuous drumbeat of support for this proposal from New Jersey social justice and animal welfare organizations, animal shelters, police departments, and prosecutor's offices. The Lesniak Institute is grateful to Senator Diegnan, Assemblyman Mukherji for championing, the New Jersey Legislature for passing, and Governor Murphy for quickly signing into law this crucial cost of animal care legislation to help ensure that New Jersey shelters can provide protection and care to any animal in need."

"This is a long-anticipated victory for animal victims and those who care for them. New Jersey joins 40 other states in holding alleged abusers accountable for costs of care for animal victims while they are in protective custody or requiring the animals be relinquished — allowing victims an opportunity to heal and have their physical and psychological needs properly addressed," said **Animal Legal Defense Fund Legislative Affairs Manager Brian R. Hackett**. "We thank Governor Phil Murphy, bill sponsors, the Legislature, and the Administrative Office of the Courts, along with many other animal protection stakeholders, for their partnership on this critically important piece of legislation for animals."

"On behalf of St. Hubert's Animal Welfare Center, and the entire Humane Rescue Alliance, we extend our deepest gratitude to the sponsors, the New Jersey Legislature, and Governor Murphy," said **Emily Hovermale, Director of Government Affairs, Humane Rescue Alliance**. "By making it easier for animal shelters to care for victims of animal cruelty, New Jersey is paving the way for a brighter future for countless animals. We thank the sponsors and Legislature for their leadership and Governor Murphy for swiftly signing this legislation into law, making it easier for every New Jersey companion animal to be protected and given a second chance at a life filled with compassion and kindness."

"The financial and psychological harms are exacerbated in cases involving multiple animal cruelty victims," said **Elissa Frank, New Jersey State Director for the Humane Society of the United States**. "Fortunately, in the recent Brick hoarding case, the owners voluntarily relinquished ownership of over 170 animals, but this result only crystallized the need for S-981 requiring an abusive owner to pay the reasonable court-approved costs of caring for a seized animal or forfeit ownership of the animal to the custodial shelter — which can then begin the process of finding the animal a permanent home — this essential law will help New Jersey shelters wisely and humanely allocate their limited resources. HSUS thanks the bill sponsors for their leadership as well as Governor Murphy for his signature."

"Companion Animal Advocates, NJ, wholeheartedly supports S-981/A-2354 — Establishment of procedures for seizure, care, and forfeiture of animals involved in animal cruelty violations - The Cost of Animal Care. This bipartisan and mainstream solution is a vital step towards addressing the pressing issue of caring for abused, unhoused, and at-risk animals," said **Companion Animal Advocates, NJ**. "In harmony with laws already enacted in forty other states, COAC showcases its wide acceptance and proven effectiveness in providing essential shelter care for animals in need from cruel conditions. The bill incorporates multiple layers of due process, safeguarding the rights of pet owners while holding them accountable for their pets' well-being. At Companion Animal Advocates, NJ, we firmly believe that COAC offers a balanced approach, permitting court-approved reasonable costs of care. By doing so, we ensure compassionate and humane treatment of animals across all communities in New Jersey. The enactment of this crucial bill aims to create a better and more caring environment for our beloved companions by ensuring that animals rescued from cruel and inhumane conditions are not re-victimized through prolonged stays in shelter while their cases make their way through the court system."