

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 4058

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2021

The Senate Environment and Energy Committee favorably reports Senate Bill No. 4058, with committee amendments.

This bill, as amended by the committee, 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, 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 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 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 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.

The committee amendments remove subsection d. of section 6 of the bill, which would have provided that if a person is found liable for the reasonable costs of care of an animal demonstrates, and the court finds, that the person is unable to pay the full amounts required under the bill, then the court would require, at minimum, payment of that portion of the required amounts attributable to the necessary veterinary care for the animal, including, but not limited to, the costs of surgical intervention, medicine, vaccinations, and euthanasia and disposal costs, as determined necessary by a licensed veterinarian.