

STATE OF NEW YORK

5563

2021-2022 Regular Sessions

IN ASSEMBLY

February 19, 2021

Introduced by M. of A. ENGLEBRIGHT, L. ROSENTHAL -- Multi-Sponsored by
-- M. of A. AUBRY, COOK, DINOWITZ, J. RIVERA -- read once and
referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to author-
izing district attorneys to petition for the posting of security for
the care of impounded animals

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Paragraphs a and c of subdivision 6 of section 373 of the
2 agriculture and markets law, paragraph a as amended by chapter 289 of
3 the laws of 2018 and paragraph c as amended by chapter 256 of the laws
4 of 1997, are amended to read as follows:

5 a. If any animal is seized and impounded pursuant to the provisions of
6 this section, section three hundred fifty-three-d of this article or
7 section three hundred seventy-five of this article for any violation of
8 this article, upon arraignment of charges, or within a reasonable time
9 thereafter, the duly incorporated society for the prevention of cruelty
10 to animals, humane society, pound, animal shelter or any authorized
11 agents thereof, hereinafter referred to for the purposes of this section
12 as the "impounding organization", or the district attorney prosecuting
13 the charges or any agent thereof, acting on behalf of the impounding
14 organization, may at or after arraignment on the charges, file a peti-
15 tion with the court in which criminal charges have been filed requesting
16 that the person from whom an animal is seized or the owner of the animal
17 be ordered to post a security. The district attorney prosecuting the
18 charges may file and obtain the requested relief on behalf of the
19 impounding organization if requested to do so by the impounding organ-
20 ization. The security shall be in an amount sufficient to secure payment
21 for all reasonable expenses expected to be incurred by the impounding
22 organization in caring and providing for the animal pending disposition
23 of the charges. Reasonable expenses shall include, but not be limited

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 to, estimated medical care and boarding of the animal for at least thir-
2 ty days. The amount of the security, if any, shall be determined by the
3 court after taking into consideration all of the facts and circumstances
4 of the case including, but not limited to the recommendation of the
5 impounding organization having custody and care of the seized animal and
6 the cost of caring for the animal. If a security has been posted in
7 accordance with this section, the impounding organization may draw from
8 the security the actual reasonable costs to be incurred by such organ-
9 ization in caring for the seized animal.

10 c. In no event shall the security prevent the impounding organization
11 having custody and care of the animal from disposing of the animal
12 pursuant to section three hundred seventy-four of this article prior to
13 the expiration of the thirty day period covered by the security if the
14 court makes a determination of the charges against the person from whom
15 the animal was seized prior thereto. Upon receipt of a petition [~~from~~
16 ~~the impounding organization~~] pursuant to this subdivision, the court may
17 order the person from whom the animal was seized or the owner of the
18 animal to post an additional security with the clerk of the court to
19 secure payment of reasonable expenses for an additional period of time
20 pending a determination by the court of the charges against the person
21 from whom the animal was seized. The person who posted the security
22 shall be entitled to a refund of the security in whole or part for any
23 expenses not incurred by such impounding organization upon adjudication
24 of the charges. The person who posted the security shall be entitled to
25 a full refund of the security, including reimbursement by the impounding
26 organization of any amount allowed by the court to be expended, and the
27 return of the animal seized and impounded upon acquittal or dismissal of
28 the charges, except where the dismissal is based upon an adjournment in
29 contemplation of dismissal pursuant to section 215.30 of the criminal
30 procedure law. The court order directing such refund and reimbursement
31 shall provide for payment to be made within a reasonable time from the
32 acquittal or dismissal of charges.

33 § 2. Subparagraph 1 of paragraph b of subdivision 6 of section 373 of
34 the agriculture and markets law, as amended by chapter 531 of the laws
35 of 2013, is amended to read as follows:

36 (1) Upon receipt of a petition pursuant to paragraph a of this subdi-
37 vision the court shall set a hearing on the petition to be conducted
38 within ten business days of the filing of such petition. The petitioner
39 shall serve a true copy of the petition upon the defendant and, where
40 the petitioner is not the district attorney, upon the district attorney
41 if the district attorney has not filed the petition on behalf of the
42 petitioner. The petitioner shall also serve a true copy of the petition
43 on any interested person. For purposes of this subdivision, interested
44 person shall mean an individual, partnership, firm, joint stock company,
45 corporation, association, trust, estate or other legal entity who the
46 court determines may have a pecuniary interest in the animal which is
47 the subject of the petition. The petitioner or the district attorney
48 acting on behalf of the petitioner, shall have the burden of proving by
49 a preponderance of the evidence that the person from whom the animal was
50 seized violated a provision of this article. The court may waive for
51 good cause shown the posting of security.

52 § 3. This act shall take effect immediately.