

STATE OF NEW YORK

3073--A

2025-2026 Regular Sessions

IN SENATE

January 23, 2025

Introduced by Sens. GIANARIS, BORRELLO, CANZONERI-FITZPATRICK, FAHY, FERNANDEZ, HARCKHAM, JACKSON, MAY, MURRAY, PALUMBO, C. RYAN, STAVISKY, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to establishing a civil remedy for the protection of companion animals denied proper care

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

1 Section 1. The agriculture and markets law is amended by adding a new
2 article 26-D to read as follows:

ARTICLE 26-D

CIVIL REMEDY FOR THE PROTECTION OF COMPANION ANIMALS

Section 440. Legislative purpose.

441. Definitions.

442. Jurisdiction; courts; venue.

443. Notice of mistreated companion animal.

444. Emergency powers.

445. Animal care hearing.

446. Appeal.

447. Construction with other laws.

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13 § 440. Legislative purpose. The purpose of this article is to provide
14 a civil means by which a companion animal that is found to be mistreated
15 or not properly cared for may be:

16 1. Made the subject of a court order to provide care issued to its
17 owner or caretaker, and

18 2. Removed from its present custody if necessary to ensure proper
19 care.

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

LBD03437-02-5

1 § 441. Definitions. As used in this article, the following terms shall
2 have the following meanings:

3 1. "Mistreated or not properly cared for" shall mean any act or omis-
4 sion that results in a companion animal suffering unnecessary psycholog-
5 ical or physical injury or pain, or failing to provide adequate food,
6 water, shelter or veterinary care necessary to preserve the physical and
7 mental well-being of a companion animal.

8 2. "Companion animal" shall have the same meaning as defined by
9 section three hundred fifty of this chapter.

10 3. "Authorized agent" shall mean any police officer, or agent or offi-
11 cer of any duly incorporated society for the prevention of cruelty to
12 animals pursuant to section three hundred seventy-three of this chapter.

13 4. "Impounding organization" shall mean any municipal pound or shel-
14 ter, duly incorporated society for the prevention of cruelty to animals
15 or duly incorporated humane society.

16 § 442. Jurisdiction; courts; venue. 1. A special proceeding to ensure
17 proper care or seizure of a companion animal shall be maintained in the
18 supreme court.

19 2. The place of the special proceeding shall be within the jurisdic-
20 tional area of the court where such companion animal thereof is situ-
21 ated.

22 § 443. Notice of mistreated companion animal. If an authorized agent
23 has reason to believe that a companion animal has been or is being
24 mistreated or not properly cared for, such authorized agent may notify
25 the owner or caretaker, in writing, of such owner or caretaker's duty to
26 provide certain care, including but not limited to, proper shelter,
27 food, water or veterinary care to such companion animal at the owner's
28 or caretaker's expense and within a time period determined by such
29 authorized agent's discretion.

30 § 444. Emergency powers. 1. If such owner or caretaker continually
31 fails to provide sustained care to such companion animal and such
32 companion animal remains mistreated or not cared for after receiving
33 notice and within the time period determined by such authorized agent,
34 an authorized agent may immediately petition the court for an ex-parte
35 emergency care and inspection order.

36 2. An emergency care and inspection order shall be immediately issued
37 upon a showing of probable cause that such companion animal has been or
38 is being mistreated or not properly cared for.

39 3. Such order shall require the owner or caretaker to provide care to
40 such companion animal and allow an authorized agent to enter onto the
41 premises where such companion animal is being kept to ensure such
42 companion animal is receiving necessary food, water, shelter and care.

43 4. An ex-parte emergency care and inspection order issued pursuant to
44 this section shall be effective upon service, in accordance with section
45 three hundred eight of the civil practice law and rules, and shall:

46 (a) provide specific details of such mistreatment or failure to
47 provide proper care to such companion animal and direct such owner or
48 caretaker to take corrective action;

49 (b) allow an authorized agent and licensed veterinarian at the direc-
50 tion of such authorized agent to inspect such companion animal to ensure
51 compliance with the order to provide care;

52 (c) prohibit such owner or caretaker from interfering with such
53 inspection by the authorized agent or veterinarian;

54 (d) prohibit an owner or caretaker from transferring ownership of such
55 companion animal without first seeking and obtaining permission of the

1 court on a showing that the new owner or caretaker can and will provide
2 adequate care;

3 (e) prohibit an owner or caretaker from euthanizing such companion
4 animal without first seeking and obtaining permission of the court on a
5 showing that such procedure is to prevent undue suffering or physical
6 pain to such companion animal; and

7 (f) allow a veterinarian to examine such companion animal at least
8 twenty-four hours to such animal care hearing.

9 5. Upon issuance of an emergency care and inspection order, the court
10 shall set a time within ten calendar days of the date of issuance for an
11 animal care hearing pursuant to section four hundred forty-five of this
12 article, to determine whether such companion animal has been mistreated
13 or not properly cared for. The date and time for the scheduled hearing
14 shall be noted within such order, or as an attachment to such order.

15 6. Such emergency care and inspection order and notice of animal care
16 hearing shall be provided within at least five days prior to the sched-
17 uled animal care hearing and served in accordance with section three
18 hundred eight of the civil practice law and rules. If such owner or
19 caretaker is not known, the emergency care and inspection order and
20 notice of animal care hearing may be affixed to such premises where such
21 companion animal was located.

22 § 445. Animal care hearing. 1. In a proceeding to determine whether
23 such companion animal has been or is being mistreated or not properly
24 cared for, and that such owner is unable to or unwilling to provide
25 immediate and sustained proper care for such companion animal, the court
26 may consider the following:

27 (a) testimony from the authorized agent and other witnesses as to the
28 condition of such companion animal;

29 (b) testimony from the authorized agent and other witnesses as to the
30 conditions under which such companion animal was kept;

31 (c) evidence as to any veterinary and behavioral care provided to such
32 companion animal;

33 (d) testimony from witnesses as to the prior treatment or condition of
34 such companion animal or other companion animals in the owner or care-
35 taker's custody;

36 (e) prior convictions of statutes prohibiting cruelty to animals; and

37 (f) any other evidence the court deems material or relevant.

38 2. The authorized agent shall have the burden to prove, by a prepon-
39 derance of the evidence, that such companion animal was mistreated or
40 not properly cared for, and that such owner or caretaker is unable or
41 unwilling to provide immediate and sustained proper care for such
42 companion animal. The owner or caretaker shall have the right to a full
43 defense including, but not limited to, the right to cross-examine
44 witnesses and to present witnesses and evidence.

45 3. If the court determines that such owner or caretaker of the compan-
46 ion animal is unable or unwilling to provide adequate care for the
47 companion animal and that the companion animal was mistreated or not
48 properly cared for, the court shall order the immediate forfeiture of
49 such companion animal that has been the subject of the hearing to the
50 authorized agent. The court shall also enjoin the owner or caretaker's
51 further possession, custody, or ownership of such other companion
52 animals for a time determined by the court to be reasonable.

53 (a) Upon an order of forfeiture pursuant to this subdivision, the
54 authorized agent may deliver such companion animal to an impounding
55 organization for adoption or other disposition pursuant to section three
56 hundred seventy-four of this chapter.

1 (b) Any order of forfeiture pursuant to this section shall identify a
2 supersedeas bond amount based on the reasonable cost to care for the
3 companion animal subject to the order of forfeiture, to be paid by the
4 owner or caretaker. Reasonable costs of care shall be determined based
5 on testimony provided at the animal care hearing and shall be calculated
6 based on the total number of animal or animals and the reasonable daily
7 cost of care for such animal or animals for, at minimum, a period of
8 ninety days. The court may take into consideration the owner or care-
9 taker's ability to pay when determining such reasonable costs of care.

10 (c) After a court has determined the overall supersedeas bond amount,
11 the bond shall be made available and payable to the entity or entities
12 currently responsible for the proper care of the companion animal or
13 animals during the length of the proceeding.

14 (d) Authorized agents shall be responsible for petitioning the supreme
15 court to initiate a proceeding pursuant to this article against an owner
16 or caretaker.

17 4. If the court determines that such owner or caretaker of the compan-
18 ion animal has provided and will continue to provide adequate care for
19 the companion animal that has been the subject of the order to provide
20 care, or that the companion animal was not mistreated or had been prop-
21 erly cared for as set forth in the emergency order, the court shall
22 vacate the order to provide care. Vacatur pursuant to this subdivision
23 shall not preclude the court from entering an order to provide care in
24 the future.

25 5. A finding in a court of competent jurisdiction that the owner or
26 caretaker of the animal is guilty of an offense brought pursuant to
27 article twenty-six of this chapter relating to the companion animal that
28 is the subject of the animal care hearing is prima facie evidence that
29 such companion animal has been mistreated or not properly cared for.

30 § 446. Appeal. 1. An appeal may be taken to the appellate division as
31 of right, originating in the supreme court from where the order of
32 forfeiture was issued. As a condition of perfecting such appeal, the
33 owner or caretaker shall file a notice of appeal and pay such superse-
34 deas bond, or other reasonable amount based on ability to pay as set by
35 the court, not later than ten calendar days after the date the order of
36 forfeiture was issued.

37 2. Any appeal filed with the appellate division of the supreme court
38 shall be perfected within thirty days following the date of the order of
39 forfeiture.

40 3. A hearing on such appeal shall be heard within thirty calendar days
41 after such appeal is perfected unless a continuance is mutually agreed
42 upon the parties. If a continuance is granted, the owner or caretaker of
43 such forfeited companion animal shall pay a second supersedeas bond in
44 the amount ordered by the appellate division to the entity or entities
45 currently responsible for the care of the companion animal.

46 4. The filing of such appeal shall not prevent the removal of a
47 forfeited companion animal from such owner or caretaker's possession by
48 the authorized agent. However, if such supersedeas bond has been paid
49 under subdivision one of this section, such companion animal or animals
50 may not be adopted or otherwise disposed of, except under circumstances
51 which would require the humane euthanasia of such companion animal to
52 prevent undue suffering or physical pain, or where such companion animal
53 poses a severe and immediate danger to itself, people or other animals.

54 § 447. Construction with other laws. Nothing in this article shall be
55 construed to (a) limit or restrict agents or officers of any duly incor-
56 porated societies for the prevention of cruelty to animals or any police

1 officer from enforcing other provisions of article twenty-six of this
2 chapter or any other law relating to the humane treatment of, or cruelty
3 to, animals, or (b) prevent a dog control officer or peace officer,
4 acting pursuant to the officer's special duties, or police officer in
5 the employ of or under contract to a municipality from seizing any dog
6 pursuant to article seven of this chapter. Relief pursuant to this
7 section shall not be stayed or continued due to the filing of criminal
8 charges involving or otherwise relating to such companion animals that
9 are subject of the emergency care and inspection order and animal care
10 hearing.

11 § 2. This act shall take effect on the one hundred twentieth day after
12 it shall have become a law.