

STATE OF NEW YORK

2555--A

2025-2026 Regular Sessions

IN ASSEMBLY

January 17, 2025

Introduced by M. of A. McDONALD, STECK, BRABENEC, GLICK, JONES, DAVILA, KELLES, ANGELINO, SANTABARBARA, BUTTENSCHON -- read once and referred 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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5 § 440. Legislative purpose. The purpose of this article is to provide
6 a civil means by which a companion animal that is found to be mistreated
7 or not properly cared for may be:

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

10 2. Removed from its present custody if necessary to ensure proper
11 care.

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

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

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LBD03437-03-5

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (d) prohibit an owner or caretaker from transferring ownership of such
53 companion animal without first seeking and obtaining permission of the
54 court on a showing that the new owner or caretaker can and will provide
55 adequate care;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (b) Any order of forfeiture pursuant to this section shall identify a
56 supersedeas bond amount based on the reasonable cost to care for the

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

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

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

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

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

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

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

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

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

52 § 447. Construction with other laws. Nothing in this article shall be
53 construed to (a) limit or restrict agents or officers of any duly incor-
54 porated societies for the prevention of cruelty to animals or any police
55 officer from enforcing other provisions of article twenty-six of this
56 chapter or any other law relating to the humane treatment of, or cruelty

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

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