

HOUSE No. 1243

The Commonwealth of Massachusetts

PRESENTED BY:

Linda Campbell

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act updating the law relating to posting a security for seized animals in cruelty cases.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|--------------------------------|-------------------------------------|
| <i>Linda Campbell</i> | <i>15th Essex</i> |
| <i>Louis L. Kafka</i> | <i>8th Norfolk</i> |
| <i>Carlo Basile</i> | <i>1st Suffolk</i> |
| <i>William N. Brownsberger</i> | <i>Second Suffolk and Middlesex</i> |
| <i>Jason M. Lewis</i> | <i>31st Middlesex</i> |
| <i>Cleon H. Turner</i> | <i>1st Barnstable</i> |
| <i>Denise Provost</i> | <i>27th Middlesex</i> |
| <i>Eugene L. O'Flaherty</i> | <i>2nd Suffolk</i> |
| <i>William C. Galvin</i> | <i>6th Norfolk</i> |
| <i>Peter V. Kocot</i> | <i>1st Hampshire</i> |
| <i>Kathi-Anne Reinstein</i> | <i>16th Suffolk</i> |
| <i>Mark J. Cusack</i> | <i>5th Norfolk</i> |
| <i>Tom Sannicandro</i> | <i>7th Middlesex</i> |
| <i>Martin J. Walsh</i> | <i>13th Suffolk</i> |
| <i>David Paul Linsky</i> | <i>5th Middlesex</i> |
| <i>Lori A. Ehrlich</i> | <i>8th Essex</i> |
| <i>Kenneth I. Gordon</i> | <i>21st Middlesex</i> |
| <i>Brian R. Mannel</i> | <i>2nd Barnstable</i> |

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| <i>Christine E. Canavan</i> | <i>10th Plymouth</i> |
| <i>Michael D. Brady</i> | <i>9th Plymouth</i> |
| <i>William Smitty Pignatelli</i> | <i>4th Berkshire</i> |
| <i>Katherine M. Clark</i> | <i>Fifth Middlesex</i> |
| <i>Kevin G. Honan</i> | <i>17th Suffolk</i> |
| <i>Cheryl A. Coakley-Rivera</i> | <i>10th Hampden</i> |
| <i>Jonathan Hecht</i> | <i>29th Middlesex</i> |
| <i>Carl M. Sciortino, Jr.</i> | <i>34th Middlesex</i> |
| <i>Denise Andrews</i> | <i>2nd Franklin</i> |
| <i>James M. Murphy</i> | <i>4th Norfolk</i> |
| <i>Timothy R. Madden</i> | <i>Barnstable, Dukes and Nantucket</i> |
| <i>Thomas J. Calter</i> | <i>12th Plymouth</i> |
| <i>John P. Fresolo</i> | <i>16th Worcester</i> |
| <i>James J. Dwyer</i> | <i>30th Middlesex</i> |
| <i>James M. Cantwell</i> | <i>4th Plymouth</i> |
| <i>John J. Lawn, Jr.</i> | <i>10th Middlesex</i> |
| <i>Paul R. Heroux</i> | <i>2nd Bristol</i> |
| <i>Bruce E. Tarr</i> | <i>First Essex and Middlesex</i> |
| <i>John W. Scibak</i> | <i>2nd Hampshire</i> |
| <i>Sean Garballey</i> | <i>23rd Middlesex</i> |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> |
| <i>Byron Rushing</i> | <i>9th Suffolk</i> |
| <i>Brian M. Ashe</i> | <i>2nd Hampden</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> |

HOUSE No. 1243

By Ms. Campbell of Methuen, a petition (accompanied by bill, House, No. 1243) of Linda Campbell and others relative to the posting of security for seized animals in cruelty cases. The Judiciary.

The Commonwealth of Massachusetts

An Act updating the law relating to posting a security for seized animals in cruelty cases.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 272 of the General Laws is hereby replacing section 104 with the following
2 section:-

3 Section 104. (a) As used in this section the word "Authority" shall mean an organization
4 or authorized agent thereof that seizes or impounds an animal pursuant to the General Laws.

5 (b) If an animal is lawfully seized or impounded pursuant to the General Laws relating to
6 cruelty to animals or animal fighting resulting in the issuance of a criminal complaint or a
7 criminal indictment, the authority or prosecuting agency, including the district attorney or
8 attorney general, may file a petition with the court that is exercising jurisdiction over the criminal
9 complaint or criminal indictment requesting that the person from whom an animal is seized or a
10 person claiming an interest in the seized animal, be ordered to post a security. The authority shall
11 serve a copy of the petition on the person from whom the animal was seized, or if the person
12 cannot be found, by posting of copy at the place where the animal was taken into custody. The
13 authority shall also serve a copy of the petition on the district attorney or the attorney general,
14 whichever is appropriate. The court may order that person to post a security.

15 (c) The security shall be in an amount sufficient to secure payment for all reasonable
16 expenses incurred, and to be incurred, by the authority having custody of the seized animal from
17 the date of seizure or impoundment and thereafter for a period of at least 30 days. The amount of
18 the security shall be determined by the court upon the recommendation of the authority.
19 Reasonable expenses shall include, but shall not be limited to, estimated medical care, shelter,
20 and board.

21 (d) When security is posted in accordance with this section, the authority may draw from
22 the security the actual reasonable costs incurred for medical care, shelter, and board. If the
23 expenses already incurred by the seizing authority at the time of judicial decision on the petition

24 exceed the petitioned for security amount, the court may permit the security amount to be paid in
25 its entirety to the seizing authority through the court, or directly from the respondent to the
26 authority, as the court deems appropriate in the interest of justice.

27 (e) If the court orders the posting of security, the security shall be posted with the clerk
28 within 10 business days of the court's decision on the petition. The respondent's failure to post
29 security as determined within the appointed time shall be deemed an immediate forfeiture of the
30 seized animal to the authority, with the full force and effect of a court order. The court may
31 waive the security requirement or reduce the amount of the security for good cause shown.

32 (f) Posting of the security shall not prevent the authority from disposing of the seized or
33 impounded animal for humane reasons and in a humane manner before the expiration of the
34 period covered by the security.

35 (g) The authority may humanely dispose of the animal at the end of the period for which
36 expenses are covered by the security, if the court orders the disposition. If the disposition order is
37 denied, the court may require the owner or custodian or any other person claiming interest in the
38 animal, to provide additional security to secure payment of reasonable expenses and to extend
39 the period of time pending adjudication by the court of the charges against the person from
40 whom the animal was seized.

41 (h) The owner or custodian of an animal humanely euthanized pursuant to this section
42 shall not be entitled to recover damages or the actual value of the animal if the owner or
43 custodian failed to post security.

44 (i) The court may direct a refund to the person who posted the security in whole or part
45 for any expenses not incurred by the authority. The court shall direct a refund to the person who
46 posted security upon acquittal of the charges.