

HOUSE No. 1969

The Commonwealth of Massachusetts

PRESENTED BY:

Linda Dean 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 bill:
An Act requiring the posting of security for the seizure and impoundment of animals .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Linda Dean Campbell	15th Essex
Stephen L. DiNatale	3rd Worcester
Christine E. Canavan	10th Plymouth
Louis L. Kafka	8th Norfolk

The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine
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AN ACT REQUIRING THE POSTING OF SECURITY FOR THE SEIZURE AND IMPOUNDMENT OF ANIMALS .

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

Chapter 272 of the General Laws is hereby amended by adding the following section:-

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

(b) If an animal is lawfully seized and impounded pursuant to the General Laws relating to cruelty to animals or animal fighting, the authority may file a petition with the court requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal, be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized, or if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney. The court may order that person to post a security.

(c) The security shall be in an amount sufficient to secure payment for all reasonable expenses to be incurred by the authority having custody of the seized animal for a temporary period of at least 30 days. The amount of the security shall be determined by the court upon the recommendation of the authority. Reasonable expenses shall include, but shall not be limited to, estimated medical care, shelter, and board.

(d) When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, shelter, and board. If the expenses already incurred by the seizing authority at the time of judicial decision on the petition exceed the petitioned for security amount, the Court may permit the security amount to be paid in its entirety to the seizing authority through the Court, or directly from the respondent to the authority, as the Court deems appropriate in the interests of justice.

(e) Any actions or orders for forfeiture pursuant to subsection (f) and/or disposal pursuant to subsections (g) or (h) shall be stayed until ten days after the application for, and issuance of a criminal complaint, or criminal indictment, arising from the same or similar facts supporting the petition for security.

(f) If the court orders the posting of security, the security shall be posted with the clerk within 10 business days of the respondent's notice of the Court's decision, or the actual date of the Court's decision plus three business days, whichever is earlier. The respondent's failure to post security as determined within the appointed time shall be deemed an immediate forfeiture of the seized animal to the authority, with the full force and effect of a court order. The court may waive the security requirement or reduce the amount of the security for good cause shown.

(g) Posting of the security shall not prevent the authority from disposing of the seized or impounded animal before the expiration of the period covered by the security, if the court rules in favor of the authority.

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

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

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