

HOUSE No. 1220

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 adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Linda Dean Campbell</i>	<i>15th Essex</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>

<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>
<i>Michael D. Brady</i>	<i>9th Plymouth</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>
<i>Frank A. Moran</i>	<i>17th Essex</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Leah Cole</i>	<i>12th Essex</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>
<i>Theodore C. Speliotis</i>	<i>13th Essex</i>

<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>

HOUSE No. 1220

By Mrs. Campbell of Methuen, a petition (accompanied by bill, House, No. 1220) of Linda Dean Campbell and others relative to the posting of security for seized animals in cruelty cases. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1243 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

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.

4 (a) As used in this section the word “Authority” shall mean an organization or authorized
5 agent thereof that seizes or impounds an animal or animals pursuant to the General Laws.

6 (b) If an animal is, or animals are, seized or impounded pursuant to the General Laws
7 relating to cruelty to animals or animal fighting resulting in the issuance of a criminal complaint
8 or a criminal indictment, the authority or prosecuting agency, including the district attorney or
9 attorney general, may file a petition with the court exercising jurisdiction over the criminal

10 complaint or criminal indictment requesting that the person from whom an animal is seized or a
11 person claiming an interest in the seized animal, be ordered to post a security. The authority shall
12 serve a copy of the petition on the person from whom the animal was seized, or if the person
13 cannot be found, by posting of copy at the place where the animal was seized. The authority shall
14 also serve a copy of the petition on the district attorney or the attorney general, whichever is
15 appropriate. The court may order that person to post a security.

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

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

28 (e) If the court orders the posting of security, the security shall be posted with the clerk
29 within 10 business days of the court's allowance on the petition. The defendant's failure to post
30 security within the appointed time shall be deemed an immediate forfeiture of the seized

31 animal(s) to the authority, with the full force and effect of a court order. The court may waive the
32 security requirement or reduce the amount of the security for good cause shown.

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

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

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

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