



# SENATE OF PENNSYLVANIA BILL SUMMARY

## House Bill 1238 Printer's No. 1565

Prime Sponsor: Representative Stephens  
Committee: Judiciary

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### SYNOPSIS:

Amends Titles 3 (Agriculture), 18 (Crimes and Offenses), 22 (Detectives and Private Police), 34 (Game), and 42 (Judiciary and Judicial Procedure) to repeal and restructure the animal cruelty provisions of Section 5511 and related sections of Title 18.

### SUMMARY:

#### *Cruelty to Animals*

Restructures the animal cruelty provisions in Section 5511 of Title 18 into three broad offenses:

(1) Neglect, (2) Cruelty, and (3) Aggravated Cruelty.

- "Neglect" (new Section 5532) is defined as denying an animal necessary food and potable water, clean and sanitary shelter, or necessary veterinary care. The offense of neglect is graded as a summary offense, or a misdemeanor of the third degree if the violation causes bodily injury or the risk of serious bodily injury.
- "Cruelty" (new Section 5533) is defined as intentionally, knowingly, or recklessly ill-treating, overloading, beating, abandoning, or abusing an animal. The offense of cruelty is graded as a misdemeanor of the second degree.
- "Aggravated cruelty" (new Section 5534) is defined as intentionally or knowingly torturing an animal or violating Sections 5532 or 5533 and causing serious bodily injury or death to the animal. The offense of aggravated cruelty is graded as a felony of the third degree.

Retains exemptions in current law for activity undertaken during normal agricultural operation.

#### *Tethering*

Creates Section 5536, pertaining to tethering an unattended dog, and sets forth rebuttable presumptions and exemptions.

Establishes a rebuttable presumption that a dog *is not* neglected if all of the following conditions are present:

- The dog is tethered no longer than 9 hours in a 24-hour period
- The tether is of a type commonly used for the size and breed of the dog and is at least three times the length of the dog or ten feet, whichever is longer

- The tether is secured by a wall-fitted collar or harness by means of a swivel or other mechanism designed to prevent entanglement
- The dog has access to potable water and shade
- The dog is not tethered longer than 30 minutes in temperatures above 90 or below 30 degrees

Establishes a rebuttable presumption that a dog *is* neglected if the following conditions are present:

- There is excessive waste in the area where the dog is tethered
- There are open sores or wounds on the dog's body
- A tow or log chain, or a choke, pinch, prong, or chain collar is used

Establishes exemptions from the prohibitions listed in this section for the following activities:

- Tethering a dog while engaged in lawful hunting, exhibition, performance events, or field training
- Tethering a hunting, sporting, or sledding dog breed where tethering is integral to the training, conditioning, or purpose of the dog
- Tethering in compliance with the requirements of a camping or recreational area
- Tethering for a period of time, not to exceed one hour, reasonably necessary for the dog or person to complete a temporary task

#### *Civil Immunity*

Provides in new Section 5556 that veterinarians who report suspected animal cruelty in good faith and in the normal scope of business shall be immune from liability for that conduct. Provides in new Section 5557 for civil immunity from suits for damages that arise from the conduct of humane society police officers in the normal course of business. Neither Section 5556 nor Section 5557 provide immunity for actions or omissions that constitute gross negligence or willful, wanton, or reckless conduct.

#### *Appointment of Human Society Police Officers*

Amends Chapter 37 of Title 22 to require that applicants for appointment as a humane society police officer submit proof of qualification to the District Attorney in addition to the court of common pleas, as currently required. Allows the court the discretion to make or decline the appointment after reviewing the District Attorney's recommendation.

#### *Forfeiture of Animals*

Requires forfeiture of the animals of anyone convicted of a felony-level violation of the statute to a society for the prevention of cruelty to animals. Allows forfeiture of the animals upon conviction for other offenses.

#### *Renumbering*

Numerous provisions in current law are renumbered but substantively unchanged.

#### **EFFECTIVE DATE:**

Effective in 60 days.

**COMMENT:**

Under existing law, Section 5511 (Cruelty to animals) of Title 18 includes provisions relating to specific species and specific types of conduct toward animals. Neglect or cruelty to animals under Section 5511 is graded as a summary offense, or as a misdemeanor of the third degree if the conduct is a second or subsequent offense involving serious injury to a dog or cat. There is no existing statute governing the tethering of animals. There is no existing definition of "torture." Humane society police officers are currently not entitled to immunity.

**BILL HISTORY:**

Passed the House of Representatives on April 26, 2017 by a vote of 167-20.

Prepared by: Cawley 6/9/2017