

No. 2004-205

## AN ACT

SB 871

Amending Title 22 (Detectives and Private Police) of the Pennsylvania Consolidated Statutes, further providing for appointment by nonprofit corporations; providing for humane society police officers' appointment, qualifications, authority and discipline; conferring powers and duties on the Department of Agriculture; establishing the Humane Society Police Officer Advisory Board; and making a related repeal.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 501(a) and (c) of Title 22 of the Pennsylvania Consolidated Statutes are amended to read:

§ 501. Appointment by nonprofit corporations.

(a) Appointment authorized.—Any nonprofit corporation, as defined in 15 Pa.C.S. Pt. II Subpt. C (relating to nonprofit corporations) maintaining a cemetery or any buildings or grounds open to the public, or organized for the prevention of cruelty to children or aged persons **[or animals]**, or one or more of such purposes, may apply to the court of common pleas of the county of the registered office of the corporation for the appointment of such persons as the corporation may designate to act as policemen for the corporation. The court, upon such application, may by order appoint such persons, or as many of them as it may deem proper and necessary, to be such policemen.

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(c) Powers.—Such policemen, so appointed, shall severally possess and exercise all the powers of a police officer in this Commonwealth, in and upon, and in the immediate and adjacent vicinity of, the property of the corporation. Policemen so appointed for a corporation organized for the prevention of cruelty to children or aged persons **[or animals]**, or one or more of such purposes, shall severally possess and exercise all the powers of a police officer in any county in which they may be directed by the corporation to act, and are hereby authorized to arrest persons for the commission of any offense of cruelty to children or aged persons **[or animals]**. The keepers of jails and other places of detention in any county of this Commonwealth shall receive all persons arrested by such policemen for purposes of detention until they are dealt with according to law. Every policeman appointed under this section, when on duty, shall wear a metallic shield with the words "special officer" and the name of the corporation for which appointed inscribed thereon.

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Section 2. Title 22 is amended by adding a chapter to read:

CHAPTER 37  
HUMANE SOCIETY POLICE OFFICERS

Sec.

- 3701. Scope of chapter.
- 3702. Definitions.
- 3703. Appointment required.
- 3704. Appointment by nonprofit corporations.
- 3705. Qualifications for appointment.
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- 3712. Training program.
- 3713. Continuing education program.
- 3714. Statewide registry.
- 3715. Humane Society Police Officer Advisory Board.
- 3716. Costs.
- 3717. Disposition of moneys.
- 3718. Applicability to currently appointed individuals.

§ 3701. Scope of chapter.

This chapter deals with humane society police officers.

§ 3702. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Agricultural animal.” Any bovine animal, equine animal, sheep, goat, pig, poultry, bird, fowl, wild or semiwild animal or fish or other aquatic animal that is being raised, kept, transported or utilized for the purpose of or pursuant to agricultural production.

“Agricultural production.” The production and preparation for market of agricultural animals and their products and of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities.

“Board.” The Humane Society Police Officer Advisory Board.

“Complainant.” Any person who has evidence that an individual appointed as a humane society police officer has performed in a manner that is contrary to the standards, requirements and qualifications prescribed in this chapter for appointment of individuals as humane society police officers. The term also includes a district attorney or a municipal solicitor.

“Convicted.” A finding or verdict of guilt, an admission of guilt or a plea of nolo contendere or receiving probation without verdict, disposition in lieu

of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges.

“Cruelty to animals laws.” The provisions of 18 Pa.C.S. § 5511 (relating to cruelty to animals).

“Department.” The Department of Agriculture of the Commonwealth.

“Humane society police officer.” Any person who holds a current appointment under this chapter to act as a humane society police officer for a society or association for the prevention of cruelty to animals. The term shall include an individual who is an agent of a society or association for the prevention of cruelty to animals as “agent” is used in 18 Pa.C.S. § 5511 (relating to cruelty to animals), provided that individual holds a current appointment under this chapter.

“Secretary.” The Secretary of Agriculture of the Commonwealth.

“Serious misdemeanor.” A criminal offense for which more than one year in prison can be imposed as a punishment.

“Society or association.” A nonprofit society or association duly incorporated pursuant to 15 Pa.C.S. Ch. 53 Subch. A (relating to incorporation generally) for the purpose of the prevention of cruelty to animals.

#### § 3703. Appointment required.

It shall be unlawful for any individual to hold himself forth as a humane society police officer unless the individual has obtained an appointment pursuant to this chapter.

#### § 3704. Appointment by nonprofit corporations.

(a) Application for appointment.—A society or association may apply to the court of common pleas in any county for the appointment of an individual as a humane society police officer for that county. The court, upon such application which includes proof of qualification under section 3705 (relating to qualifications for appointment), shall by order appoint such person to be a humane society police officer.

(b) Oath.—Every individual appointed as a humane society police officer pursuant to this chapter shall, before entering upon the duties of the office, take and subscribe to the oath required by Article VI of the Constitution of Pennsylvania.

#### § 3705. Qualifications for appointment.

An individual shall be qualified for an appointment as a humane society police officer provided the society or association submits proof satisfactory to the court of common pleas in each county for which the society or association directs the individual to act as a humane society police officer that the individual meets all of the following requirements:

(1) Has been a resident of this Commonwealth for the previous 12 months.

(2) Has successfully completed the training program established pursuant to section 3712 (relating to training program).

(3) Has obtained a criminal history report from the Pennsylvania State Police pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal history record information) or a statement from the Pennsylvania State Police that the Pennsylvania State Police central repository contains no pertinent information relating to the individual who is the subject of the application. The criminal history record information shall be limited to that which may be disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general regulations).

(4) Has not been convicted of an offense graded a felony or a serious misdemeanor.

(5) Has not been convicted of any violation, including a summary offense, of 18 Pa.C.S. § 5511 (relating to cruelty to animals).

(6) Has not been convicted of an offense in another jurisdiction, state, territory or country in accordance with the laws of that jurisdiction, state, territory or country equivalent to an offense graded a felony or a serious misdemeanor or an offense of cruelty to animals.

§ 3706. Suspension, revocation, limitation and restriction of appointment; restoration of appointment.

(a) Grounds for suspension, revocation, limitation or restriction.—By its own action or pursuant to a written affidavit filed by a complainant, the court of common pleas may, after conducting a hearing, suspend, revoke, limit or restrict an appointment of an individual to act as a humane society police officer in the county if the court determines any of the following:

(1) Being convicted of a felony or a serious misdemeanor in any Federal or State court or being convicted of the equivalent of a felony in any foreign country, territory or possession.

(2) Being convicted of an offense of cruelty to animals in any Federal or State court or being convicted of the equivalent of a cruelty to animals offense in any foreign country, territory or possession.

(3) Presenting false credentials or documents or making a false or misleading statement in the application for appointment or a certification of completion of additional training or submitting an application for appointment or a certification for completion of additional training containing a false or misleading statement.

(4) Carrying or possessing a firearm in the performance of his or her duties without certification pursuant to section 3711 (relating to limitation on possession of firearms).

(5) The individual has conducted his or her authority to enforce animal cruelty laws in a manner that is substandard of conduct normally expected of humane society police officers.

(b) Notice to department.—Upon action by the court of common pleas to suspend, revoke, limit or restrict an appointment, the clerk of courts of the county shall forward such information to the department for the purpose of the Statewide registry established pursuant to section 3714 (relating to Statewide registry).

(c) Restoration.—The court of common pleas may restore a suspended appointment of an individual if the individual provides to the court evidence sufficient to warrant restoration and the court determines the grounds for suspension have been satisfactorily corrected and the individual otherwise qualifies for appointment.

§ 3707. Termination of appointment.

(a) General rule.—All powers and authority granted to an individual under section 3708 (relating to powers and authority; jurisdiction) shall immediately terminate upon notice to the individual from the society or association for which appointed that services are no longer required of the individual.

(b) Notice to court.—The society or association must file notice within ten days of a termination of an individual as a humane society police officer with the clerk of courts in each county in which the individual has been appointed as a humane society police officer.

(c) Notice to department.—The society or association must file notice within ten days of a termination of an individual as a humane society police officer with the department for the purpose of providing information relevant to the Statewide registry established pursuant to section 3714 (relating to Statewide registry).

§ 3708. Powers and authority; jurisdiction.

(a) Authority limited to county of appointment.—An individual appointed as a humane society police officer in accordance with this chapter shall have power and authority to exercise the powers conferred under 18 Pa.C.S. § 5511 (relating to cruelty to animals) in enforcement of animal cruelty laws only within the particular county whose court of common pleas issued the appointment. The individual has no power or authority to exercise the powers conferred under 18 Pa.C.S. § 5511 in any other county whose court of common pleas has not issued an appointment.

(b) Notice to district attorney.—Prior to exercising the power and authority set forth by this chapter within a county, each appointed humane society police officer shall file notice, along with a copy of the appointment granted under this chapter, with the district attorney of the county.

(c) Shield.—Every individual appointed as a humane society police officer under this chapter shall possess a metallic shield with the words “humane society police officer” and the name of the society or association for which the individual is appointed displayed thereon.

(d) Photo identification.—Every individual appointed as a humane society police officer under this chapter shall have a photo identification card issued by the department that contains the following:

- (1) A photo of the individual taken within the previous 24 months.
- (2) The name of the individual.
- (3) The signature of the individual.
- (4) The name of the society or association for which the individual is appointed as a humane society police officer.

(5) The address and telephone number of the society or association for which the individual is appointed as a humane society police officer.

(6) The date of issuance of the photo identification card.

§ 3709. Penalties.

(a) Criminal penalties.—A person who violates this chapter commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of up to \$1,000 or to imprisonment for not more than 90 days, or both.

(b) Civil penalties.—In addition to any criminal penalties or other civil remedy, a person, association or society who violates this chapter may be subject to a civil penalty of up to \$1,000.

§ 3710. Search warrants.

Notwithstanding contrary provisions of 18 Pa.C.S. § 5511(1) (relating to cruelty to animals) and in addition to the requirements of existing law, all search warrant applications filed in connection with alleged violations of cruelty to animals laws must have the approval of the district attorney in the county of the alleged offense prior to filing.

§ 3711. Limitation on possession of firearms.

No individual appointed as a humane society police officer shall carry, possess or use a firearm in the performance of that individual's duties unless that individual holds a current and valid certification in the use and handling of firearms pursuant to at least one of the following:

(1) 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).

(2) The act of October 10, 1974 (P.L.705, No.235), known as the Lethal Weapons Training Act.

(3) The act of February 9, 1984 (P.L.3, No.2), known as the Deputy Sheriffs' Education and Training Act.

(4) Any other firearms program that has been determined by the Commissioner of the Pennsylvania State Police to be of sufficient scope and duration as to provide the participant with basic training in the use and handling of firearms.

§ 3712. Training program.

(a) Required training.—Every individual, prior to the society or association making application for appointment as a humane society police officer, shall successfully complete the minimum requirements for initial training prescribed in the program for initial training of humane society police officers established in accordance with subsections (b), (c), (d) and (e).

(b) Contracts.—The secretary, with the advice of the board, shall contract with an accredited college or university, including a community college or other public or private entity, for the establishment of a program for the training of individuals to act as humane society police officers. The contracted entity shall forward information pertaining to an individual's successful completion of the initial training program to the department for the

purpose of maintaining the Statewide registry established pursuant to section 3714 (relating to Statewide registry).

(c) Minimum requirements.—The program for the training of humane society police officers shall include at a minimum 60 hours of instruction in accordance with subsection (d).

(d) Curriculum.—The program for the training of humane society police officers shall provide instruction in the following instructional areas:

- (1) At least 36 hours of instruction shall be provided on the following:
  - (i) Pennsylvania cruelty to animal laws.
  - (ii) Pennsylvania Rules of Criminal Procedure.
  - (iii) Care and treatment of animals.
  - (iv) Proper execution of search warrants.
  - (v) Proper search and seizure practices.
  - (vi) Any other areas relating to law enforcement duties.
- (2) At least 24 hours of instruction shall be provided on the following:
  - (i) Animal husbandry practices constituting normal agricultural operation.
  - (ii) Practices accepted in the agricultural industry in the raising, keeping and production of agricultural animals.
  - (iii) Characteristics of agricultural animals likely evidencing care that is in violation of the cruelty to animal laws.
  - (iv) Proper care and handling of agricultural animals pursuant to enforcement of the cruelty to animals laws.
  - (v) Treatments administered and research conducted during the normal scope of veterinarian practices.

(e) Final examination.—The training program shall require individuals, as a prerequisite to successful completion of the program, to take and pass a final examination that sufficiently measures the individuals's knowledge and understanding of the instructional material.

(f) Current officers.—Individuals who have been appointed as humane society police officers prior to the effective date of this chapter are exempt from the initial training requirements pursuant to this section provided that the individual can provide proof to the secretary of successful completion of a similar training program for humane society police officers established under the act of December 12, 1994 (P.L.956, No.135), known as the Humane Society Police Officer Enforcement Act.

§ 3713. Continuing education program.

(a) Required training.—During each two-year period following the date in which an individual has been initially appointed as a humane society police officer, the individual shall successfully complete the minimum requirements for additional training prescribed in the program for continuous education of humane society police officers established in accordance with subsections (b), (c), (d) and (e).

(b) Contracts.—The secretary, with the advice of the board, shall contract with an accredited college or university, including a community college or

other public or private entity, for the establishment of a continuing education program for the training of individuals to act as humane society police officers. The contracted entity shall forward information pertaining to an individual's successful completion of the continuing education program to the department for the purpose of maintaining the Statewide registry established pursuant to section 3714 (relating to Statewide registry.)

(c) Minimum requirements.—The continuing education program for the training of humane society police officers shall include at a minimum ten hours of instruction in accordance with subsection (d).

(d) Curriculum.—The program for the training of humane society police officers shall provide instruction in the following instructional areas:

(1) At least six hours of instruction shall be provided on the following:

- (i) Pennsylvania cruelty to animals laws.
- (ii) Pennsylvania Rules of Criminal Procedure.
- (iii) Care and treatment of animals.
- (iv) Proper completion of search warrants.
- (v) Proper search and seizure practices.
- (vi) Any other areas relating to law enforcement duties.

(2) At least four hours of instruction shall be provided on the following:

- (i) Animal husbandry practices constituting normal agricultural operation.
- (ii) Practices accepted in the agricultural industry in the raising, keeping and production of agricultural animals.
- (iii) Characteristics of agricultural animals likely evidencing care that is in violation of the cruelty to animals laws.
- (iv) Proper care and handling of agricultural animals pursuant to enforcement of the cruelty to animals laws.
- (v) Treatments administered and research conducted during the normal scope of veterinarian practices.

(e) Automatic suspension.—Failure to complete the continuing education program as prescribed in subsection (a) shall result in an individual's automatic suspension of the powers and authority set forth in section 3708 (relating to powers and authority; jurisdiction) until such time as the individual successfully completes the continuing education requirements.

§ 3714. Statewide registry.

(a) Establishment.—There is hereby established a Statewide registry within the department for the purpose of maintaining information relating to individuals appointed as humane society police officers.

(b) Access to registry.—The information included within the Statewide registry shall be made accessible to the public through the department's World Wide Web site and shall include the following:

(1) The name of each individual appointed as a humane society police officer.



(2) The name and address of the society or association for which each individual is appointed as a humane society police officer.

(3) The counties in which the individual has been appointed as a humane society police officer and dates of appointment.

(4) The counties in which the individual has had an appointment revoked, suspended, limited or restricted, the action taken by the court and dates of action.

(5) The dates of successful completion of the training program established in section 3712 (relating to training program) and the continuing education program established in section 3713 (relating to continuing education program).

(c) Updates.—The department shall update the registry within ten days of receiving information required for inclusion on the Statewide registry.

(d) Confidential information.—At no time shall the home address or any other related personal information of an individual appointed as a humane society police office be made public through the Statewide registry.

§ 3715. Humane Society Police Officer Advisory Board.

(a) Advisory board.—The secretary shall appoint a Humane Society Police Officer Advisory Board to advise him in the administration of this chapter.

(b) Membership.—The board shall consist of the following:

(1) The secretary or his designee, who shall act as a chairman.

(2) A representative of a society or association for the prevention of cruelty to animals.

(3) A humane society police officer.

(4) A representative of a Statewide veterinary medical association.

(5) A representative of a farm organization.

(6) A district attorney or his designee.

(7) A representative of the police.

(8) A district justice.

(9) A court of common pleas judge or his designee.

(10) A clerk of courts.

(11) A representative of the Pennsylvania Game Commission.

(c) Terms.—The length of the initial term of each appointment to the board shall be set by the secretary and shall be staggered so that the terms of approximately one-third of the appointments expire every other year.

(d) Absences.—Three consecutive unexcused absences from regular board meetings or failure to attend at least 50% of the regularly scheduled board meetings in any calendar year shall be considered cause for termination of appointment unless the secretary, upon written request of the member, finds that the member should be excused from attending a meeting because of illness or death of a family member or for a similar emergency.

(e) Vacancies.—Vacancies in the membership of the board shall be filled for the balance of an unexpired term in the same manner as the original appointment.

(f) Recommendations.—The board may make nonbinding recommendations to the secretary on all matters related to the provisions of this chapter.

§ 3716. Costs.

In addition to any fines, fees or other penalties levied or imposed under this chapter or any other statute, a cost of \$50 shall be imposed upon conviction for any violation of 18 Pa.C.S. § 5511 (relating to cruelty to animals) other than a summary offense. Costs collected under this section shall be disposed of in accordance with section 3717 (relating to disposition of moneys).

§ 3717. Disposition of moneys.

Notwithstanding the provisions of 42 Pa.C.S. §§ 3571 (relating to Commonwealth portion of fines, etc.) and 3573 (relating to municipal corporation portion of fines, etc.), all costs imposed and collected under sections 3709 (relating to penalties) and 3716 (relating to costs) by a division of the unified judicial system existing under section 1 of Article V of the Constitution of Pennsylvania and 42 Pa.C.S. § 301 (relating to unified judicial system) shall be remitted to the Commonwealth for use by the department for administering this chapter.

§ 3718. Applicability to currently appointed individuals.

Any individual appointed prior to the effective date of this chapter as a humane society police officer in the county of the registered office of the society or association for which the individual was previously appointed shall not be required to apply for appointment by the court of common pleas in that county under this chapter. Such individual shall be required to apply for appointment pursuant to section 3704 (relating to appointment by nonprofit corporations) in each county other than the initial county of appointment if directed by the society or association.

Section 3. The act of December 12, 1994 (P.L.956, No.135), known as the Humane Society Police Officer Enforcement Act, is repealed.

Section 4. This act shall take effect in 180 days.

APPROVED—The 30th day of November, A.D. 2004.

EDWARD G. RENDELL