

No. 1994-135

AN ACT

HB 2542

Providing for humane society police officers' appointment, qualifications, authority and discipline; further providing for search warrants; and conferring powers and duties on the Department of Agriculture.

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

Section 1. Short title.

This act shall be known and may be cited as the Humane Society Police Officer Enforcement Act.

Section 2. Definitions.

The following words and phrases when used in this act 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 which 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.

"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 duly appointed pursuant to 22 Pa.C.S. § 501 (relating to appointment by nonprofit corporations) to act as a police officer for a society or association for the prevention of cruelty to animals. The term shall include any person 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).

"Land grant institution." Educational institutions located within or outside the geographic boundaries of this Commonwealth which have received a grant of public land made by the Congress of the United States for the support of education pursuant to the act of July 2, 1862 (12 Stat. 503, 7 U.S.C. § 301 et seq.), known as the Morrill Act.

"Society or association for the prevention of cruelty to animals." 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.

Section 3. Appointment by court of common pleas; jurisdiction of humane society police officers.

An individual may not exercise the powers conferred under 18 Pa.C.S. § 5511 (relating to cruelty to animals) upon an agent of a society or association for the prevention of cruelty to animals or the powers conferred under 22 Pa.C.S. § 501(c) (relating to appointment by nonprofit corporations) upon a humane society police officer within the boundaries of a county unless the individual has been appointed as a humane society police officer in that county in accordance with 22 Pa.C.S. § 501.

Section 4. Humane society police officers.

(a) Applications for appointment of humane society police officers.—No society, association, corporation or organization, other than a society or association for the prevention of cruelty to animals, is eligible under 22 Pa.C.S. § 501 (relating to appointment by nonprofit corporations) to apply for or receive appointment of any individual as a police officer in the enforcement of cruelty to animals laws. Each society or association for the prevention of cruelty to animals which makes application to the court of common pleas pursuant to 22 Pa.C.S. § 501 for the appointment of an individual to act as a police officer for the society or association for the prevention of cruelty to animals must provide with the application the documentation the court may require that the person has satisfactorily completed a training program established in accordance with subsection (c)(1), (2), (3) and (4).

(b) Additional training requirements.—During each two-year period following the date in which a humane society police officer has been initially appointed, the officer shall successfully complete the minimum requirements for additional training prescribed in the program for continuous training of humane society police officers established in accordance with subsection (c)(5). The society or association for the prevention of cruelty to animals for which an individual is acting as humane society police officer shall maintain complete and accurate records documenting that such individual has successfully completed all requirements for additional training of humane society police officers established in accordance with subsection (c)(5). The society or association for the prevention of cruelty to animals shall make such records available, upon request, to the court of common pleas which appointed the individual as a humane society police officer and to any person.

(c) Humane society police officer training program.—A land grant institution may establish a program for training of individuals to act as humane society police officers.

(1) The program for initial training of humane society police officers must include, at a minimum, a total of 56 hours of instruction, in accordance with paragraphs (2), (3) and (4).

(2) At least 32 hours of instruction in the initial training program must be provided in the following group of instructional areas:

(i) Cruelty to animals laws.

(ii) Care and treatment of animals.

(iii) Pennsylvania rules of criminal law and criminal procedure.

(3) At least 24 hours of instruction in the initial training program must be provided in the following group of instructional areas:

(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 violative of the cruelty to animals laws.

(iv) Proper care and handling of agricultural animals pursuant to enforcement of the cruelty to animals laws.

(4) The initial training program must also require an individual, as a prerequisite to successful completion of the training program, to take and pass a final examination that sufficiently measures the individual's knowledge and understanding of the instructional material.

(5) The program for continuous training of humane society police officers must provide for such instruction as will allow an individual to receive, at a minimum, a total of six hours of additional instruction every two years. At least two of the six hours of instruction must be provided in areas of instruction prescribed in paragraph (3). The program must attempt to provide to an individual instruction that differs from instruction previously provided to the individual during the individual's initial or continuous training.

(d) Criminal history information.—The application for the appointment of a person to act as a humane society police officer shall include a report of criminal history record information 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 such information relating to the person 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).

(e) Limitation on the possession of firearms.—No person appointed as a humane society police officer shall carry, possess or use a firearm in the performance of his or her duties unless such person holds a current and valid certification in the use and handling of firearms pursuant to at least one of the following:

(1) The act of June 18, 1974 (P.L.359, No.120), referred to as the Municipal Police Education and Training Law.

(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 which 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.

(f) Application of act to prior appointees.—

(1) Any humane society police officer who, prior to the effective date of this act, has successfully completed a training program similar to that required under subsections (a) and (c) shall, after review by the court of common pleas, be certified as having met the training requirements of this act. Any humane society police officer who, prior to the effective date of this act, has not successfully completed a training program similar to that required under subsections (a) and (c) may continue to perform the duties of a humane society police officer until such person has successfully completed the required training program, but not longer than two years from the effective date of this act.

(2) Any humane society police officer who, prior to the effective date of this act, has not been certified in the use and handling of firearms pursuant to one or more of the acts set forth in subsection (e)(1), (2) and (3) shall not carry or possess a firearm in the performance of the duties of a humane society police officer on or after the effective date of this act until the person has, under subsection (e), been certified in the use and handling of firearms.

(g) Optional training programs.—A humane society police officer may satisfy the training requirements of subsections (a), (b) and (c) by successfully completing a training program developed and administered by an accredited college or university or community college or by a public or private entity if the training program has been approved by the department as meeting the training requirements of subsection (c). The department shall, by regulation, establish standards and procedures for approving optional training programs. Pending promulgation of such regulations, the department may adopt interim guidelines for approval of optional training programs.

Section 5. Refusal, suspension or revocation of appointment.

(a) Refusal, suspension or revocation required.—The court of common pleas shall refuse to appoint a person to act as a humane society police officer or shall suspend or revoke the appointment of a person who is acting as a humane society police officer if the court determines that the person has:

(1) Failed to satisfy the training requirements of section 4(a), (b) and (c).

(2) Failed to provide or to have provided any documentation which, under section 4(a), is required to be submitted with an application for appointment or which the court may reasonably request.

(3) Had a criminal history record which would disqualify the applicant from becoming a private police officer pursuant to 22 Pa.C.S. Ch. 5 (relating to private police).

(4) Been convicted of violating 18 Pa.C.S. § 5301 (relating to official oppression).

(b) Additional grounds.—The court of common pleas may refuse to appoint a person to act as a humane society police officer or may suspend or revoke the appointment of a person who is acting as a humane society police officer if the court determines that the person has:

(1) Failed to keep, maintain or make available such records as are required to be kept, maintained or made available under section 4(b) for certification of completion of additional training requirements.

(2) Made a false or misleading statement in the application for appointment or a certification of completion of additional training or submitted or had submitted an application for appointment or a certification for completion of additional training containing a false or misleading statement.

(3) Carried or possessed a firearm in the performance of his or her duties without certification pursuant to section 4(e).

(4) Engaged in conduct which constitutes a prima facie violation of 18 Pa.C.S. § 5301.

(5) Violated any of the provisions of this act.

(c) Effect on 22 Pa.C.S. § 501.—Nothing in this section shall be construed to limit the authority of a court of common pleas to deny the appointment of any person or to place upon any person any additional prerequisites or conditions of appointment, pursuant to 22 Pa.C.S. § 501(a) (relating to appointment by nonprofit corporations).

Section 6. Search warrants.

Notwithstanding 18 Pa.C.S. § 5511(1) (relating to cruelty to animals) or any other provision of law to the contrary, the district attorney of any county shall require that search warrant applications filed in the county in connection with an alleged violation of the cruelty to animals laws have the approval of the district attorney prior to filing. The court of common pleas shall establish a procedure for approval of search warrant applications in emergency situations if the district attorney is unavailable.

Section 7. Temporary appointment.

(a) General rule.—An agent of a society or association for the prevention of cruelty to animals may petition the court of common pleas for temporary appointment as a humane society police officer, provided that:

(1) No other agent for the society or association for the prevention of cruelty to animals is currently appointed to act as a humane society police officer for that society.

(2) Such agent has not been previously appointed under this section to act as a humane society police officer.

(3) Such agent submits to the court of common pleas the criminal history information prescribed in section 4(d) and such information shows that such agent would not be disqualified from appointment under section 5(a)(3).

(b) Expiration.—A temporary appointment under this section shall expire at the end of six months or such time as the agent or any other agent of the humane society has been permanently appointed by the court of common pleas to act as humane society police officer in the county, whichever is earlier. No more than one temporary appointment shall be effective for any society or association for the prevention of cruelty to animals at any time.

Section 8. Effective date.

This act shall take effect in 60 days.

APPROVED—The 12th day of December, A.D. 1994.

ROBERT P. CASEY