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HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 95

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO COMPANION ANIMALS IN THE DISPOSITION OF MARITAL PROPERTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 1503, Title 13 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows and redesignating accordingly:

3 § 1503. Definitions.

4 For purposes of this ~~chapter, unless the context indicates differently:~~ chapter:

5 (3) "Companion animal" means an animal kept primarily for companionship instead of as any of the
6 following:

7 a. A working animal.

8 b. A service animal as defined in § 4502 of Title 6.

9 c. An animal kept primarily as a source of income, including livestock as defined in § 7700 of Title 3.

10 Section 2. Amend § 1509, Title 13 of the Delaware Code by making deletions as shown by strike through and
11 insertions as shown by underline as follows:

12 § 1509. Preliminary injunction; interim orders pending final hearing.

13 (a) Upon the filing of a petition for divorce or annulment, a preliminary injunction shall be issued against both
14 parties to the action, enjoining them from:

15 (1) Transferring, encumbering, concealing or in any way disposing of any property except in the usual course
16 of business or for the necessities of life, and requiring the parties to notify the other of any proposed extraordinary
17 expenditures and to account to the Court for all extraordinary expenditures after the preliminary injunction becomes
18 effective; provided, however, that:

19 f. A companion animal may not be transferred, encumbered, concealed, disposed of, or spayed or
20 neutered without the written agreement of both parties.

21 Section 3. Amend § 1513, Title 13 of the Delaware Code by making deletions as shown by strike through and
22 insertions as shown by underline as follows:

23 § 1513. Disposition of marital property; imposition of lien; insurance policies.

24 (b) For purposes of this chapter only, “marital property” means all of the following:

25 (1) All property acquired by either party subsequent to the marriage, except any of the following:

26 a. Property acquired by an individual spouse by bequest, devise, or descent or by gift, except gifts
27 between spouses, provided the gifted property is titled and maintained in the sole name of the donee spouse, or a
28 gift tax return is filed reporting the transfer of the gifted property in the sole name of the donee spouse or a
29 notarized document, executed before or contemporaneously with the transfer, is offered demonstrating the nature
30 of the transfer.

31 b. Property acquired in exchange for property acquired prior to the marriage.

32 c. Property excluded by valid agreement of the parties.

33 d. The increase in value of property acquired prior to the marriage.

34 (g)(1) If the court finds that a companion animal of the parties is marital property, it shall award ownership of and
35 responsibility for the companion animal to 1 or both of the parties and may include responsibility for veterinary or other
36 extraordinary expenses.

37 (2) In issuing an order under paragraph (g)(1) of this section, the Court shall take into consideration the well-
38 being of the companion animal. In determining the well-being of the companion animal, the Court may consider
39 factors such as:

40 a. The ability of each party to own, support, and provide necessary care for the companion animal.

41 b. The attachment between the companion animal and each of the parties.

42 c. The time and effort each party spent with the companion animal during the marriage tending to the
43 companion animal’s needs.

44 (3) If the parties are awarded a shared interest in a companion animal, the Court shall limit the subsequent
45 disposition of the companion animal to the following:

46 a. The parties may jointly transfer their combined interests to a third party.

47 b. One party may in writing irrevocably surrender their interest to the other party.

48 c. Upon the death of one party, all interest shall transfer to the surviving party.

49 d. Upon a substantial change of circumstances, either party may petition the Family Court to be awarded
50 sole ownership based upon the welfare of the companion animal and the totality of the circumstances.

SYNOPSIS

This Act requires Family Court to award possession and provide for the care of companion animals when dividing marital property after considering the well-being of the companion animal.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.