

HOUSE No. 1467

By Mr. Kafka of Stoughton, a petition (accompanied by bill, House, No. 1467) of Louis L. Kafka and others relative to trusts for the care of animals. The Judiciary.

The Commonwealth of Massachusetts

PRESENTED BY:

Louis L. Kafka

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 passage of the accompanying bill:

An Act Relative to trusts for the care of animals.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Louis L. Kafka	8th Norfolk
Alice K. Wolf	25th Middlesex
David B. Sullivan	6th Bristol
Bruce J. Ayers	1st Norfolk
Timothy J. Toomey, Jr.	26th Middlesex
Jennifer M. Callahan	18th Worcester
Bruce E. Tarr	First Essex and Middlesex
Barbara A. L'Italien	18th Essex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO TRUSTS FOR THE CARE OF ANIMALS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding any general or special law or regulation to the contrary,
2 Chapter 203 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended
3 by inserting after section 3B the following section: -

4 Section 3C.

5 A trust for the care of one or more animals alive during the settlor's lifetime is valid. Unless
6 the **trust** instrument provides for an earlier termination, the trust terminates upon the death of the
7 animal or, if the trust was created to provide for the care of more than one animal alive during
8 the settlor's lifetime, upon the death of the last surviving animal.

9 (a) Except as expressly provided otherwise in the trust instrument, no portion of the principal or
10 income may be converted to the use of the trustee, other than reasonable trustee fees and
11 expenses of administration, or to any use other than for the benefit of a covered animal or
12 animals.

13 (b) A court may reduce the amount of property held by the trust if it that amount substantially
14 exceeds the amount required for the intended use and the court finds that there will be no
15 substantial adverse impact in the care, maintenance, health, or appearance of the animal or
16 animals. The amount of the reduction shall pass as unexpended trust property in accordance with
17 paragraph (c) of this Section.

18 (c) Upon reduction or termination, the trustee shall transfer the unexpended trust property in the
19 following order:

20 (1) As directed in the trust instrument;

21 (2) To the settler, if living;

22 (3) If the trust was created in a nonresiduary clause in the transferor's will or in a

23 codicil to the transferor's will, under the residuary clause in the transferor's will; or
24 (4) To the settlor's heirs in accordance with G.L. c. 190.

25 (d) If a **trustee** is not designated by the trust instrument or no designated **trustee** is willing or
26 able to serve, the court shall name a **trustee**. The court may order the transfer of the property to
27 another **trustee** if the transfer is necessary to ensure that the intended use is carried out. The
28 court may also make other orders and determinations as are advisable to carry out the intent of
29 the settlor and the intended use of the trust.

30 (e) The intended use of the principal or income may be enforced by an individual designated for
31 that purpose in the trust instrument, by the person having custody of an animal for which care is
32 provided by the trust instrument, by a remainder beneficiary, or by an individual appointed by a
33 court upon application to it by an individual or charitable organization.

34 (f) The settlor or other custodian of an animal for whose benefit the trust was created may
35 transfer custody of the animal to the trustee at or subsequent to the creation of the trust.

36 (g) Any **trust** created under this Section shall be exempt from G.L. c. 184A and the common law
37 rule against perpetuities.