



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney,
Governor

John McNeal, Director
SCPD

MEMORANDUM

DATE: April 24, 2023

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Mr. Benjamin Shrader, Chairperson 
State Council for Persons with Disabilities

RE: HB 95 (Proposed Amendment to § 1503, Title 13 of the Delaware Code
Relating to Companion Animals in the Disposition of Marital Property)

The State Council for Persons with Disabilities (SCPD) has reviewed HB 95 proposes to amend § 1503 of Title 13 of the Delaware Code. The amendment 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. Moreover, the amendment adds that “[a] companion animal may not be transferred, encumbered, concealed, disposed of, or spayed or neutered without the written agreement of both parties.” SCPD has the following observations.

The amendment also adds that if the companion animal is marital property of both parties, the court will award ownership of and responsibility for the companion animal to one or both of the parties and may also include veterinary and other expenses. To determine who will receive ownership of the companion animal, the Court “shall take into consideration the well-being of the companion animal,” considering “the ability of each party to own, support, and provide necessary care for the companion animal, the attachment between the companion animal and each of the

parties, [and] the time and effort each party spent with the companion animal during the marriage tending to the companion animal's needs.”

The amendment then adds that if the Court finds that the parties are awarded a shared interest in the companion animal, the Court “shall limit the subsequent disposition of the companion animal to the following:

- a) The parties may jointly transfer their combined interests to a third party.
- b) One party may in writing irrevocably surrender their interest to the other party.
- c) Upon the death of one party, all interest shall transfer to the surviving party.
- d) Upon a substantial change of circumstances, either party may petition the Family Court to be awarded sole ownership based upon the welfare of the companion and the totality of the circumstances.”

SCPD endorses this legislation, but why are service animals not expressly included. At a minimum, the statute should indicate that service animals are the property of the person for whom they have been trained to assist.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position or observations on the proposed legislation.

cc: Ms. Laura Waterland, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HB 95 Companion Animals 4-24-23