



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4000

by Rep. Robert Rita

SYNOPSIS AS INTRODUCED:

510 ILCS 72/5
510 ILCS 72/20
510 ILCS 72/35
510 ILCS 72/55
510 ILCS 72/60
510 ILCS 72/65
510 ILCS 72/85
510 ILCS 72/90
510 ILCS 72/100
510 ILCS 72/105
510 ILCS 72/115
510 ILCS 72/120
510 ILCS 72/125
510 ILCS 72/130
510 ILCS 72/135
510 ILCS 72/140
510 ILCS 72/145
510 ILCS 72/150
510 ILCS 72/160
510 ILCS 72/165
510 ILCS 72/170
510 ILCS 72/190 new

Amends the Humane Euthanasia in Animal Shelters Act. Changes references from "Director" to "Secretary". Removes a requirement for certified euthanasia technicians to renew his or her certification every 5 years. Makes changes to provisions concerning investigations, hearings, certification of record, criminal penalties, confidentiality, and surrender and restoration of certificates. Provides that the Secretary of Financial and Professional Regulation may summarily suspend the certificate of a euthanasia agency or euthanasia technician without a hearing, simultaneously with the institution of proceedings for a hearing, if the Secretary finds that the evidence indicates that the continued practice of the certified euthanasia agency or technician would constitute cruelty or an imminent danger to the public. Makes other changes.

LRB099 09513 MGM 29721 b

1 AN ACT concerning animals.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Humane Euthanasia in Animal Shelters Act is
5 amended by changing Sections 5, 20, 35, 55, 60, 65, 85, 90,
6 100, 105, 115, 120, 125, 130, 135, 140, 145, 150, 160, 165, and
7 170 and by adding Section 190 as follows:

8 (510 ILCS 72/5)

9 Sec. 5. Definitions. The following terms have the meanings
10 indicated, unless the context requires otherwise:

11 "Address of record" means the designated address recorded
12 by the Department in the applicant, euthanasia agency, or
13 euthanasia technician's file as maintained by the Department's
14 licensure maintenance unit.

15 "Animal" means any bird, fish, reptile, or mammal other
16 than man.

17 "DEA" means the United States Department of Justice Drug
18 Enforcement Administration.

19 "Department" means the Department of Financial and
20 Professional Regulation.

21 ~~"Director" means the Director of the Department of~~
22 ~~Professional Regulation.~~

23 "Euthanasia agency" means an entity certified by the

1 Department for the purpose of animal euthanasia that holds an
2 animal control facility or animal shelter license under the
3 Animal Welfare Act and that permits only euthanasia technicians
4 or veterinarians to perform the euthanasia of animals.

5 "Euthanasia drugs" means Schedule II or Schedule III
6 substances (nonnarcotic controlled substances) as set forth in
7 the Illinois Controlled Substances Act that are used by a
8 euthanasia agency for the purpose of animal euthanasia.

9 "Euthanasia technician" or "technician" means a person
10 employed by a euthanasia agency or working under the direct
11 supervision of a veterinarian and who is certified by the
12 Department to administer euthanasia drugs to euthanize
13 animals.

14 "Secretary" means the Secretary of Financial and
15 Professional Regulation.

16 "Veterinarian" means a person holding the degree of Doctor
17 of Veterinary Medicine who is licensed under the Veterinary
18 Medicine and Surgery Practice Act of 2004.

19 (Source: P.A. 96-780, eff. 8-28-09.)

20 (510 ILCS 72/20)

21 Sec. 20. Application for original certification; change of
22 address.

23 (a) Applications for original certification shall be made
24 to the Department in writing, shall be signed by the applicant
25 on forms prescribed by the Department, and shall be accompanied

1 by a nonrefundable fee set by rule. The Department may require
2 information from the applicant that, in its judgment, will
3 enable the Department to determine the qualifications of the
4 applicant for certification.

5 (b) It is the duty of the applicant, euthanasia agency, or
6 euthanasia technician to inform the Department of any change of
7 address, and those changes must be made either through the
8 Department's website or by contacting the Department.

9 (Source: P.A. 92-449, eff. 1-1-02.)

10 (510 ILCS 72/35)

11 Sec. 35. Technician certification; duties.

12 (a) An applicant for certification as a euthanasia
13 technician shall file an application with the Department and
14 shall:

15 (1) Be 18 years of age.

16 (2) Be of good moral character. In determining moral
17 character under this Section, the Department may take into
18 consideration whether the applicant has engaged in conduct
19 or activities that would constitute grounds for discipline
20 under this Act.

21 (3) Each applicant for certification as a euthanasia
22 technician shall have his or her fingerprints submitted to
23 the Department of State Police in an electronic format that
24 complies with the form and manner for requesting and
25 furnishing criminal history record information as

1 prescribed by the Department of State Police. These
2 fingerprints shall be checked against the Department of
3 State Police and Federal Bureau of Investigation criminal
4 history record databases now and hereafter filed. The
5 Department of State Police shall charge applicants a fee
6 for conducting the criminal history records check, which
7 shall be deposited in the State Police Services Fund and
8 shall not exceed the actual cost of the records check. The
9 Department of State Police shall furnish, pursuant to
10 positive identification, records of Illinois convictions
11 to the Department.

12 (4) Hold a license or certification from the American
13 Humane Association, the National Animal Control
14 Association, the Illinois Federation of Humane Societies,
15 or the Humane Society of the United States issued within 3
16 years preceding the date of application. ~~Every 5 years a~~
17 ~~certified euthanasia technician must renew his or her~~
18 ~~certification with the Department.~~ At the time of renewal,
19 the technician must present proof that he or she attended a
20 class or seminar, administered by the American Humane
21 Association, the National Animal Control Association, the
22 Illinois Federation of Humane Societies, or the Humane
23 Society of the United States, that teaches techniques or
24 guidelines, or both, for humane animal euthanasia.

25 (5) Pay the required fee.

26 (b) The duties of a euthanasia technician shall include but

1 are not limited to:

2 (1) preparing animals for euthanasia and scanning each
3 animal, prior to euthanasia, for microchips;

4 (2) accurately recording the dosages administered and
5 the amount of drugs wasted;

6 (3) ordering supplies;

7 (4) maintaining the security of all controlled
8 substances and drugs;

9 (5) humanely euthanizing animals via intravenous
10 injection by hypodermic needle, intraperitoneal injection
11 by hypodermic needle, or intracardiac injection only on
12 comatose animals by hypodermic needle; and

13 (6) properly disposing of euthanized animals after
14 verification of death.

15 (c) A euthanasia technician employed by a euthanasia agency
16 may perform euthanasia by the administration of a Schedule II
17 or Schedule III nonnarcotic controlled substance. A euthanasia
18 technician may not personally possess, order, or administer a
19 controlled substance except as an agent of the euthanasia
20 agency.

21 (d) Upon termination from a euthanasia agency, a euthanasia
22 technician shall not perform animal euthanasia until he or she
23 is employed by another certified euthanasia agency.

24 (e) A certified euthanasia technician or an instructor in
25 an approved course does not engage in the practice of
26 veterinary medicine when performing duties set forth in this

1 Act.

2 (Source: P.A. 96-780, eff. 8-28-09.)

3 (510 ILCS 72/55)

4 Sec. 55. Endorsement. An applicant, who is a euthanasia
5 technician certified, registered, or licensed under the laws of
6 another state or territory of the United States that has
7 requirements that are substantially similar to the
8 requirements of this Act, may be granted certification as a
9 euthanasia technician in this State without examination, upon
10 presenting satisfactory proof to the Department that the
11 applicant has been engaged in the practice of euthanasia for a
12 period of not less than one year and upon payment of the
13 required fee. In addition, an applicant shall have his or her
14 fingerprints submitted to the Department of State Police for
15 purposes of a criminal history records check pursuant to clause
16 (a) (3) of Section 35.

17 (Source: P.A. 92-449, eff. 1-1-02; 93-626, eff. 12-23-03.)

18 (510 ILCS 72/60)

19 Sec. 60. Fees; returned checks. An agency or person who
20 delivers a check or other payment to the Department that is
21 returned to the Department unpaid by the financial institution
22 upon which it is drawn shall pay to the Department, in addition
23 to the amount already owed to the Department a fine of \$50. The
24 fines imposed by this Section are in addition to any other

1 discipline provided under this Act. The Secretary ~~Director~~ may
2 waive the fines due under this Section in individual cases
3 where the Secretary ~~Director~~ finds that the fines would be
4 unreasonable or unnecessarily burdensome.

5 (Source: P.A. 92-449, eff. 1-1-02.)

6 (510 ILCS 72/65)

7 Sec. 65. Refused issuance, suspension, or revocation of
8 certification. The Department may refuse to issue, renew, or
9 restore a certification or may revoke or suspend a
10 certification, or place on probation, reprimand, impose a fine
11 not to exceed \$10,000 for each violation, or take other
12 disciplinary or non-disciplinary action as the Department may
13 deem proper with regard to a certified euthanasia agency or a
14 certified euthanasia technician for any one or combination of
15 the following reasons:

16 (1) in the case of a certified euthanasia technician,
17 failing to carry out the duties of a euthanasia technician
18 set forth in this Act or rules adopted under this Act;

19 (2) abusing the use of any controlled substance or
20 euthanasia drug;

21 (3) selling, stealing, or giving controlled substances
22 or euthanasia drugs away;

23 (4) abetting anyone in violating item (1) or (2) of
24 this Section;

25 (5) violating any provision of this Act, the Illinois

1 Controlled Substances Act, the Illinois Food, Drug and
2 Cosmetic Act, the federal Food, Drug, and Cosmetic Act, the
3 federal Controlled Substances Act, the rules adopted under
4 these Acts, or any rules adopted by the Department of
5 Financial and Professional Regulation concerning the
6 euthanizing of animals;

7 (6) in the case of a euthanasia technician, acting as a
8 euthanasia technician outside of the scope of his or her
9 employment with a certified euthanasia agency; and

10 (7) in the case of a euthanasia technician, being
11 convicted of or entering a plea of guilty or nolo
12 contendere to any crime that is (i) a felony under the laws
13 of the United States or any state or territory thereof,
14 (ii) a misdemeanor under the laws of the United States or
15 any state or territory an essential element of which is
16 dishonesty, or (iii) directly related to the practice of
17 the profession.

18 (Source: P.A. 96-780, eff. 8-28-09; 97-813, eff. 7-13-12.)

19 (510 ILCS 72/85)

20 Sec. 85. Cease and desist order.

21 (a) If an agency or person violates a provision of this
22 Act, the Secretary ~~Director~~ may, in the name of the People of
23 the State of Illinois, through the Attorney General of the
24 State of Illinois, petition for an order enjoining the
25 violation or for an order enforcing compliance with this Act.

1 Upon the filing of a verified petition in court, the court may
2 issue a temporary restraining order, without notice or bond,
3 and may preliminarily and permanently enjoin the violation, and
4 if it is established that the agency or person has violated or
5 is violating the injunction, the court may punish the offender
6 for contempt of court. Proceedings under this Section shall be
7 in addition to, and not in lieu of, all other remedies and
8 penalties provided by this Act.

9 (b) Whenever, in the opinion of the Department, an agency
10 or person violates a provision of this Act, the Department may
11 issue a rule to show cause why an order to cease and desist
12 should not be entered against the agency. The rule shall
13 clearly set forth the grounds relied upon by the Department and
14 shall provide a period of 7 days from the date of the rule to
15 file an answer to the satisfaction of the Department. Failure
16 to answer to the satisfaction of the Department shall cause an
17 order to cease and desist to be issued immediately.

18 (Source: P.A. 92-449, eff. 1-1-02.)

19 (510 ILCS 72/90)

20 Sec. 90. Uncertified practice; civil penalty.

21 (a) A person who practices, offers to practice, attempts to
22 practice, or holds himself or herself out as a certified
23 euthanasia technician or a certified euthanasia agency without
24 being certified under this Act shall, in addition to any other
25 penalty provided by law, pay a civil penalty to the Department

1 in an amount not to exceed \$10,000 for each offense as
2 determined by the Department. The civil penalty shall be
3 assessed by the Department after a hearing is held in
4 accordance with the provisions set forth in this Act regarding
5 the provision of a hearing for the discipline of a certified
6 euthanasia technician or a certified euthanasia agency. The
7 civil penalty must be paid within 60 days after the effective
8 date of the order imposing the civil penalty. The order shall
9 constitute a judgment and may be filed and executed in the same
10 manner as any judgment from any court of record.

11 (b) The Department may investigate any uncertified
12 activity.

13 (c) Instructors or licensed veterinarians teaching humane
14 euthanasia techniques are exempt from the certification
15 process so long as they are currently certified, registered, or
16 licensed by another state as a euthanasia technician or as a
17 veterinarian.

18 (Source: P.A. 96-780, eff. 8-28-09.)

19 (510 ILCS 72/100)

20 Sec. 100. Investigations; notice and hearing.

21 (a) The Department may investigate the actions of an
22 applicant or an animal shelter or animal control facility
23 holding or claiming to hold a certificate.

24 (b) Before refusing to issue or renew a certificate or
25 disciplining a certified euthanasia agency or technician, the

1 Department shall notify in writing the applicant, the
2 euthanasia agency, or euthanasia technician of the nature of
3 the charges and that a hearing will be held on the date
4 designated, which shall be at least 30 days after the date of
5 the notice. The Department shall direct the applicant,
6 euthanasia agency, or euthanasia technician to file a written
7 answer to the Department under oath within 20 days after the
8 service of the notice and inform the applicant, euthanasia
9 agency, or euthanasia technician that failure to file an answer
10 will result in default being taken against the applicant,
11 euthanasia agency, or euthanasia technician and that the
12 certificate may be suspended, revoked, placed on probationary
13 status, or other disciplinary action may be taken, including
14 limiting the scope, nature, or extent of business as the
15 Secretary ~~Director~~ may deem proper. Written notice may be
16 served by personal delivery or certified or registered mail
17 sent to the applicant, euthanasia agency, or euthanasia
18 technician's ~~respondent at the most recent address of~~ on ~~on~~ record
19 ~~with the Department.~~

20 If the applicant, euthanasia agency, or euthanasia
21 technician fails to file an answer after receiving notice, the
22 certification may, in the discretion of the Department, be
23 suspended, revoked, or placed on probationary status, or the
24 Department may take whatever disciplinary action it deems
25 proper including imposing a civil penalty, without a hearing if
26 the act or acts charged constitute sufficient ground for such

1 action under this Act.

2 At the time and place fixed in the notice, the Department
3 shall proceed to hear the charges, and the parties or their
4 counsel shall be accorded ample opportunity to present such
5 statements, testimony, evidence, and argument as may be
6 pertinent to the charges or to their defense. The Department
7 may continue a hearing from time to time.

8 (Source: P.A. 92-449, eff. 1-1-02.)

9 (510 ILCS 72/105)

10 Sec. 105. Records of proceedings ~~Stenographer; transcript.~~
11 The Department, at its expense, shall preserve a record of all
12 proceedings at the formal hearing of any case involving the
13 refusal to issue or renew a certificate or the discipline of a
14 certified euthanasia technician. The notice of hearing,
15 complaint, and all other documents in the nature of pleadings,
16 written motions filed in the proceedings, the transcript of
17 testimony, the report of the hearing officer, and the order of
18 the Department shall be the record of the proceeding.

19 (Source: P.A. 92-449, eff. 1-1-02.)

20 (510 ILCS 72/115)

21 Sec. 115. Findings and recommendations. At the conclusion
22 of the hearing, the hearing officer shall present to the
23 Secretary ~~Director~~ a written report of its findings and
24 recommendations. The report shall contain a finding of whether

1 or not the accused applicant, euthanasia agency, or euthanasia
2 technician violated this Act or failed to comply with the
3 conditions required in this Act. The hearing officer shall
4 specify the nature of the violation or failure to comply, and
5 shall make its recommendations to the Secretary ~~Director~~ .

6 The report of the findings and recommendations of the
7 hearing officer may ~~shall~~ be the basis for the Department's
8 order of refusal or for the granting of certification unless
9 the Secretary ~~Director~~ determines that the hearing officer's
10 report is contrary to the manifest weight of the evidence, in
11 which case the Secretary ~~Director~~ may issue an order in
12 contravention of the hearing officer's report. The finding is
13 not admissible in evidence against the applicant, agency, or
14 technician in a criminal prosecution brought for the violation
15 of this Act, but the hearing and finding are not a bar to a
16 criminal prosecution brought for the violation of this Act.

17 (Source: P.A. 92-449, eff. 1-1-02.)

18 (510 ILCS 72/120)

19 Sec. 120. Motion for rehearing ~~Rehearing on motion~~ . In a
20 case involving the refusal to issue or renew a certificate or
21 the discipline of a certified euthanasia agency or technician,
22 a copy of the hearing officer's report shall be served upon the
23 respondent by the Department, either personally or as provided
24 in this Act for the service of the notice of hearing. Within 20
25 days after such service, the respondent may present to the

1 Department a motion in writing for a rehearing, which shall
2 specify the particular grounds for rehearing. If no motion for
3 rehearing is filed, then upon the expiration of the time
4 specified for filing the motion, or if a motion for rehearing
5 is denied, then upon such denial the Secretary ~~Director~~ may
6 enter an order in accordance with recommendations of the
7 hearing officer except as provided in Section 125 of this Act.
8 If the respondent shall order from the reporting service and
9 pay for a transcript of the record with the time for filing a
10 motion for rehearing, the 20 day period within which such a
11 motion may be filed shall commence upon the delivery of the
12 transcript to the respondent.

13 (Source: P.A. 92-449, eff. 1-1-02.)

14 (510 ILCS 72/125)

15 Sec. 125. Rehearing on order of Secretary ~~Director~~.
16 Whenever the Secretary ~~Director~~ is satisfied that substantial
17 justice has not been done in the revocation or suspension of a
18 certification or refusal to issue or renew a certificate, the
19 Secretary ~~Director~~ may order a rehearing.

20 (Source: P.A. 92-449, eff. 1-1-02.)

21 (510 ILCS 72/130)

22 Sec. 130. Hearing officer. The Secretary ~~Director~~ has the
23 authority to appoint an attorney duly licensed to practice law
24 in this State to serve as the hearing officer in an action for

1 refusal to issue or renew a certificate or for the discipline
2 of a certified euthanasia agency or technician. The hearing
3 officer shall have full authority to conduct the hearing. The
4 hearing officer shall report his or her findings of fact,
5 conclusions of law, and recommendations to the Secretary
6 Director. If the Secretary disagrees with the recommendation of
7 the Board or hearing officer, then the Secretary may issue an
8 order in contravention of the report.

9 (Source: P.A. 92-449, eff. 1-1-02.)

10 (510 ILCS 72/135)

11 Sec. 135. Order or certified copy. An order or a certified
12 copy of an order, over the seal of the Department and
13 purporting to be signed by the Secretary Director, shall be
14 prima facie proof that:

15 (1) the signature is the genuine signature of the
16 Secretary Director; and

17 (2) the Secretary Director is duly appointed and
18 qualified.

19 This proof may be rebutted.

20 (Source: P.A. 92-449, eff. 1-1-02.)

21 (510 ILCS 72/140)

22 Sec. 140. Restoration of certificate. Any time after the
23 successful completion of a term of indefinite probation, or the
24 suspension or revocation of a certificate, the Department may

1 restore the certificate ~~to the accused agency~~ upon the written
2 recommendation of the Secretary ~~Department~~ unless, after an
3 investigation and a hearing, the Department determines that
4 restoration is not in the public interest or that the licensee
5 has not been sufficiently rehabilitated to warrant the public
6 trust. No person or entity whose certificate has been revoked
7 as authorized in this Act may apply for restoration of that
8 license, certification, or authority until the time as provided
9 for in the Civil Administrative Code of Illinois.

10 (Source: P.A. 92-449, eff. 1-1-02.)

11 (510 ILCS 72/145)

12 Sec. 145. Surrender of certificate. Upon the revocation or
13 suspension of a certificate, the euthanasia agency or
14 euthanasia technician shall immediately surrender the
15 certificate to the Department, and if the euthanasia agency or
16 euthanasia technician fails to do so, the Department shall have
17 the right to seize the certificate.

18 (Source: P.A. 92-449, eff. 1-1-02.)

19 (510 ILCS 72/150)

20 Sec. 150. Summary ~~Temporary~~ suspension of a certificate.
21 The Secretary ~~Director~~ may summarily ~~temporarily~~ suspend the
22 certificate of a euthanasia agency or euthanasia technician
23 without a hearing, simultaneously with the institution of
24 proceedings for a hearing, if the Secretary ~~Director~~ finds that

1 ~~the~~ evidence ~~in his or her possession~~ indicates that the
2 continued practice of the certified euthanasia agency or
3 technician would constitute cruelty or an imminent danger to
4 the public. If the Secretary ~~Director~~ temporarily suspends the
5 certificate without a hearing, a hearing by the hearing officer
6 shall be commenced ~~must be held~~ within 30 days of the
7 suspension and shall be concluded as expeditiously as possible.
8 (Source: P.A. 92-449, eff. 1-1-02.)

9 (510 ILCS 72/160)

10 Sec. 160. Certification of record; costs. The Department
11 shall not be required to certify any record to the court or
12 file any answer in court or otherwise appear in a court in a
13 judicial review proceeding, unless there is filed in the court,
14 with the complaint, a receipt from the Department acknowledging
15 payment of the costs of furnishing and certifying the record,
16 which costs shall be determined by the Department. Exhibits
17 shall be certified without cost. Failure on the part of the
18 plaintiff to file a receipt in court shall be grounds for
19 dismissal of the action.

20 (Source: P.A. 92-449, eff. 1-1-02.)

21 (510 ILCS 72/165)

22 Sec. 165. Criminal penalties. An applicant, euthanasia
23 agency or euthanasia technician who is found to have violated a
24 provision of this Act is guilty of a Class A misdemeanor for

1 the first offense. On conviction of a second or subsequent
2 offense, the violator shall be guilty of a Class 4 felony. The
3 Department shall, for the purpose of criminal investigation and
4 prosecution, refer alleged violations of this Act to (i) local
5 law enforcement officials or the Illinois State Police and (ii)
6 the State's Attorney of the county within which the violation
7 occurred. The Department shall, for the purpose of criminal
8 investigation and prosecution, refer alleged violations of the
9 Humane Care for Animals Act to (i) local law enforcement
10 officials or the Illinois State Police and (ii) the State's
11 Attorney of the county within which the violation occurred.

12 (Source: P.A. 96-780, eff. 8-28-09.)

13 (510 ILCS 72/170)

14 Sec. 170. Administrative Procedure Act. The Illinois
15 Administrative Procedure Act is hereby expressly adopted and
16 incorporated in this Act as if all of the provisions of that
17 Act were included in this Act, except that the provision of
18 subsection (d) of Section 10-65 of the Illinois Administrative
19 Procedure Act, which provides that at hearings the certificate
20 ~~license~~ holder has the right to show compliance with all lawful
21 requirements for retention, continuation, or renewal of a
22 certificate license, is specifically excluded. For the
23 purposes of this Act, the notice required under Section 10-25
24 of the Illinois Administrative Procedure Act is deemed
25 sufficient when mailed to the ~~last known~~ address of record a

1 party.

2 (Source: P.A. 92-449, eff. 1-1-02.)

3 (510 ILCS 72/190 new)

4 Sec. 190. Confidentiality. All information collected by
5 the Department in the course of an examination or investigation
6 of an applicant, euthanasia agency, or euthanasia technician,
7 including, but not limited to, any complaint against an
8 applicant, euthanasia agency, or euthanasia technician filed
9 with the Department and information collected to investigate
10 any complaint shall be maintained for the confidential use of
11 the Department and shall not be disclosed. The Department may
12 not disclose the information to anyone other than law
13 enforcement officials, other regulatory agencies that have an
14 appropriate regulatory interest as determined by the
15 Secretary, or to a party presenting a lawful subpoena to the
16 Department. Information and documents disclosed to a federal,
17 State, county, or local law enforcement agency shall not be
18 disclosed by the Department for any purpose to any other entity
19 or person. A formal complaint filed against an applicant,
20 euthanasia agency, or euthanasia technician by the Department
21 or any order issued by the Department against an applicant,
22 euthanasia agency, or euthanasia technician shall be a public
23 record, except as otherwise prohibited by law.