

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 808
HOUSE BILL 1233

AN ACT TO AUTHORIZE THE APPOINTMENT OF ANIMAL CRUELTY INVESTIGATORS AND TO MAKE TECHNICAL AND CLARIFYING AMENDMENTS TO ARTICLE 1 OF GENERAL STATUTES CHAPTER 19A.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 19A is amended by adding a new Article to read:

"ARTICLE 4.

"Animal Cruelty Investigators.

"§ 19A-5. Appointment of animal cruelty investigators; term of office; removal; badge; oath; bond. — (a) The board of county commissioners is authorized to appoint one or more animal cruelty investigators to serve without any compensation or other employee benefits in his county. In making these appointments, the board may consider persons nominated by any society incorporated under North Carolina law for the prevention of cruelty to animals. Prior to making any such appointment, the board of county commissioners is authorized to enter into an agreement whereby any necessary expenses of caring for seized animals not collectable pursuant to G.S. 19A-7 may be paid by the animal cruelty investigator or by any society incorporated under North Carolina law for the prevention of cruelty to animals that is willing to bear such expense.

(b) Animal cruelty investigators shall serve a one-year term subject to removal for cause by the board of county commissioners. Animal cruelty investigators shall, while in the performance of their official duties, wear in plain view a badge of a design approved by the board identifying them as animal cruelty investigators, and provided at no cost to the county.

(c) Animal cruelty investigators shall take and subscribe the oath of office required of public officials. The oath shall be filed with the clerk of superior court. Animal cruelty investigators shall not be required to post any bond.

(d) Upon approval by the board of county commissioners, the animal cruelty investigator or investigators may be reimbursed for all necessary and actual expenses, to be paid by the county.

"§ 19A-6. Powers; magistrate's order; execution of order; petition; notice to owner. — (a) Whenever any animal is being cruelly treated as defined in G.S. 19A-1(2), an animal cruelty investigator may file with a magistrate a sworn complaint requesting an order allowing the investigator to provide suitable care for and take immediate custody of the animal. The magistrate shall issue the order only when he finds probable cause to believe that the animal is being cruelly treated and that it is necessary for the investigator to immediately take custody of it. Any magistrate's order issued under this section shall be valid for only 24 hours after its issuance. After he executes the order, the animal cruelty investigator shall return it with a written inventory of the animals seized to the clerk of court in the county where the order was issued.

(b) The animal cruelty investigator may request a law enforcement officer or animal control officer to accompany him to help him seize the animal. An investigator may forcibly enter any premises or vehicle when necessary to execute the order only if he reasonably

believes that the premises or vehicle is unoccupied by any person and that the animal is on the premises or in the vehicle. Forcible entry shall be used only when the animal cruelty investigator is accompanied by a law enforcement officer. In any case, he must give notice of his identity and purpose to anyone who may be present before entering said premises. Forcible entry shall only be used during the daylight hours.

(c) When he has taken custody of such an animal, the animal cruelty investigator shall file a complaint pursuant to Article 1 of this Chapter as soon as possible. When he seizes the animal, he shall leave with the owner, if known, or affixed to the premises or vehicle a copy of the magistrate's order and a written notice of a description of the animal, the place where the animal will be taken, the reason for taking the animal, and the investigator's intent to file a complaint in district court requesting custody of the animal pursuant to Article 1 of this Chapter.

(d) Notwithstanding the provisions of G.S. 7A-305(c), any person who commences a proceeding under this Article or Article 1 of this Chapter shall not be required to pay any court costs or fees prior to a final judicial determination as provided in G.S. 19A-4, at which time those costs shall be paid pursuant to the provisions of G.S. 6-18.

(e) Any judicial order authorizing forcible entry shall be issued by a district court judge. **"§ 19A-7. Care of seized animals.** — The investigator must take any animal he seizes directly to some safe and secure place and provide suitable care for it. The necessary expenses of caring for seized animals, including necessary veterinary care, shall be a charge against the animal's owner and a lien on the animal to be enforced as provided by G.S. 44A-4.

"§ 19A-8. Interference unlawful. — It shall be a misdemeanor punishable by a fine of up to two hundred dollars (\$200.00) or not more than ninety days imprisonment, or both, to interfere with an animal cruelty investigator in the performance of his official duties.

"§ 19A-9. Educational requirements. — Each animal cruelty investigator at his own expense must attend annually a course of at least six hours instruction offered by the North Carolina Humane Federation or some other agency. The course shall be designed to give the investigator expertise in the investigation of complaints relating to the care and treatment of animals. Failure to attend a course approved by the board of county commissioners shall be cause for removal from office."

Sec. 2. G.S. 19A-1(2) is rewritten to read:

"(2) The terms 'cruelty' and 'cruel treatment' shall be held to include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted; but such term shall not be construed to include lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, lawful activities sponsored by agencies conducting biomedical research or training, lawful activities for sport, the production of livestock or poultry, or the lawful destruction of any animal for the purpose of protecting such livestock or poultry."

Sec. 3. G.S. 19A-3 is rewritten to read:

"§ 19A-3. Preliminary injunction. — Upon the filing of a verified complaint in the district court in the county in which cruelty to an animal has allegedly occurred, the judge may, in his discretion, issue a preliminary injunction in accordance with the procedures set forth in G.S. 1A-1, Rule 65. Every such preliminary injunction, if the complainant so requests, may give the complainant the right to provide suitable care for the animal. If it appears on the face of the complaint that the condition giving rise to the cruel treatment of an animal requires the animal to be removed from its owner or other person who possesses it, then it shall be proper for the court in the preliminary injunction to allow the complainant to take possession of the animal."

Sec. 4. G.S. 19A-4 is rewritten to read:

"§ 19A-4. Permanent injunction. — In accordance with G.S. 1A-1, Rule 65, a district court judge in the county in which the original action was brought shall determine the merits of the

action by trial without a jury, and upon hearing such evidence as may be presented, shall enter orders as he deems appropriate, including a permanent injunction or final determination of the animal's custody."

Sec. 5. G.S. 6-18 is amended by adding a new subsection to read:

"(5) In an action brought under Article 1 of General Statutes Chapter 19A."

Sec. 6. This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 7th day of June, 1979.