

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

SESSION LAW 2005-383
HOUSE BILL 1085

AN ACT TO REQUIRE A DEFENDANT ARRESTED FOR USING DOGS FOR FIGHTING TO POST A DEPOSIT TO THE ANIMAL SHELTER TO PAY FOR THE DOGS' KEEP DURING THE PERIOD PRIOR TO ADJUDICATION OF THE CHARGES.

The General Assembly of North Carolina enacts:

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

"Article 6.

"Care of Dogs Illegally Used for Fighting.

"§ 19A-70. Care of dogs illegally used for fighting.

(a) In every arrest under G.S. 14-362.2, if an animal shelter takes custody of dogs illegally used for fighting, the animal shelter may file a petition with the court requesting that the defendant be ordered to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the animal shelter in caring for and providing for the dogs pending the disposition of the charges. For purposes of this section, 'reasonable expenses' includes the cost of providing food, water, shelter, and care, including medical care, for at least 30 days.

(b) Upon receipt of a petition, the court shall set a hearing on the petition. The hearing shall be conducted no less than 10 and no more than 15 business days after the petition is filed. The animal shelter shall mail written notice of the hearing and a copy of the petition to the defendant at the address contained in the criminal charges. If the defendant is in a local detention facility at the time the petition is filed, the animal shelter shall also provide notice to the custodian of the detention facility.

(c) The court shall set the amount of funds necessary for 30 days' care after taking into consideration all of the facts and circumstances of the case, including the recommendation of the animal shelter and the estimated cost of caring for the dogs as well as the defendant's ability to pay. If the court determines that the defendant is unable to deposit funds, the court may consider issuing an order under subsection (f) of this section.

Any order for funds to be deposited pursuant to this section shall state that if the animal shelter files an affidavit with the clerk of superior court, at least two business days prior to the expiration of a 30-day period, stating that, to the best of the shelter's knowledge, the criminal case against the defendant has not yet been resolved, the order shall be automatically renewed every 30 days until the criminal case is resolved.

(d) If the court orders that funds be deposited, the amount of funds necessary for 30 days shall be posted with the clerk of superior court. The defendant shall also deposit the same amount with the clerk of superior court every 30 days thereafter until the criminal charges are resolved, unless the defendant requests a hearing no less than five business days prior to the expiration of a 30-day period. If the defendant fails to deposit the funds within five business days of the initial hearing, or five business days of the expiration of a 30-day period, the dogs are forfeited by operation of law. If funds have been deposited in accordance with this section, the animal shelter may draw from the funds the actual costs incurred in caring for the dogs.

In the event of forfeiture, the animal shelter may determine whether any of the dogs are suitable for adoption and whether adoption can be arranged for any of the dogs. The dogs may not be adopted by the defendant or by any person residing in the defendant's household, and the animal shelter shall notify any persons adopting the dogs of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67 of the General Statutes. If no adoption can be arranged after the forfeiture, or the dogs are unsuitable for adoption, the shelter shall humanely euthanize the dogs.

(e) The deposit of funds shall not prevent the animal shelter from disposing of the dogs prior to the expiration of the 30-day period covered by the deposit if the court makes a final determination of the charges against the defendant. Upon the adjudication of the charges, the defendant is entitled to a refund for any portion of the deposit not incurred as expenses by the animal shelter. A person who is adjudicated not guilty of the charges under G.S. 14-362.2 shall be entitled to a full refund of the deposit.

(f) Pursuant to subsection (c) of this section, the court may order a defendant to provide necessary food, water, shelter, and care, including any necessary medical care, for any dogs that are the basis of the charges against the defendant without the removal of the dogs from the existing location and until the charges against the defendant are adjudicated. If the court issues such an order, the court shall provide for an animal control officer or other law enforcement officer to make regular visits to the location to ensure that the dogs are receiving necessary food, water, shelter, and care, including any necessary medical care, and to impound the animals if they are not receiving those necessities."

SECTION 2. This act becomes effective December 1, 2005, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 23rd day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 3:21 p.m. this 13th day of September, 2005