

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 2098\*  
Committee Substitute Favorable 6/8/06

Short Title: Protection of Animals.

(Public)

Sponsors:

Referred to:

May 18, 2006

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAW RELATING TO THE PROTECTION OF  
3 ANIMALS, AS RECOMMENDED BY THE GENERAL STATUTES  
4 COMMISSION.

5 The General Assembly of North Carolina enacts:

6 **PART I. CIVIL REMEDY FOR CRUELTY AMENDMENTS.**

7 **SECTION 1.1.** G.S. 19A-3 reads as rewritten:

8 "**§ 19A-3. Preliminary ~~injunction~~injunction; care of animal pending hearing on**  
9 **the merits.**

10 (a) Upon the filing of a verified complaint in the district court in the county in  
11 which cruelty to an animal has allegedly occurred, the judge may, as a matter of  
12 discretion, issue a preliminary injunction in accordance with the procedures set forth in  
13 G.S. 1A-1, Rule 65. Every such preliminary injunction, if the ~~complainant~~plaintiff so  
14 requests, may give the ~~complainant~~plaintiff the right to provide suitable care for the  
15 animal. If it appears on the face of the complaint that the condition giving rise to the  
16 cruel treatment of an animal requires the animal to be removed from its owner or other  
17 person who possesses it, then it shall be proper for the court in the preliminary  
18 injunction to allow the ~~complainant~~plaintiff to take possession of the ~~animal~~. animal as  
19 custodian.

20 (b) The plaintiff as custodian may employ a veterinarian or other health provider  
21 to provide necessary medical care for the animal without any additional court order.  
22 Prior to taking such action, the plaintiff as custodian shall consult with, or attempt to  
23 consult with, the defendant in the action, but the plaintiff as custodian may authorize  
24 such care without the defendant's consent. Notwithstanding the provisions of this  
25 subsection, the plaintiff as custodian may not have an animal euthanized without written  
26 consent of the defendant or a court order that authorizes euthanasia upon the court's  
27 finding that the animal is suffering due to terminal illness or terminal injury.

28 (c) The plaintiff as custodian may place an animal with a foster care provider.  
29 The foster care provider shall return the animal to the plaintiff as custodian on demand."



1 (b) Upon receipt of a petition, the court shall set a hearing on the ~~petition-~~  
2 petition to determine the need to care for and provide for the animal pending the  
3 disposition of the litigation. The hearing shall be conducted no less than 10 and no more  
4 than 15 business days after the petition is filed. The operator of the animal shelter shall  
5 mail written notice of the hearing and a copy of the petition to the defendant at the  
6 address contained in the criminal ~~charges-~~ charges or the complaint or summons by  
7 which a civil action was initiated. If the defendant is in a local detention facility at the  
8 time the petition is filed, the operator of the animal shelter shall also provide notice to  
9 the custodian of the detention facility.

10 (c) The court shall set the amount of funds necessary for 30 days' care after  
11 taking into consideration all of the facts and circumstances of the case, including the  
12 need to care for and provide for the animal pending the disposition of the litigation, the  
13 recommendation of the operator of the animal shelter and shelter, the estimated cost of  
14 caring for and providing for the dogs animal, ~~as well as~~ and the defendant's ability to  
15 pay. If the court determines that the defendant is unable to deposit funds, the court may  
16 consider issuing an order under subsection (f) of this section.

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

23 (d) If the court orders that funds be deposited, the amount of funds necessary for  
24 30 days shall be posted with the clerk of superior court. The defendant shall also deposit  
25 the same amount with the clerk of superior court every 30 days thereafter until the  
26 ~~criminal charges are~~ litigation is resolved, unless the defendant requests a hearing no  
27 less than five business days prior to the expiration of a 30-day period. If the defendant  
28 fails to deposit the funds within five business days of the initial hearing, or five business  
29 days of the expiration of a 30-day period, the ~~dogs are~~ animal is forfeited by operation  
30 of law. If funds have been deposited in accordance with this section, the operator of the  
31 animal shelter may draw from the funds the actual costs incurred in caring for the ~~dogs-~~  
32 animal.

33 In the event of forfeiture, the animal shelter may determine whether ~~any of the dogs~~  
34 ~~are~~ the animal is suitable for adoption and whether adoption can be arranged for ~~any of~~  
35 ~~the dogs-~~ the animal. The ~~dogs animal~~ may not be adopted by the defendant or by any  
36 person residing in the defendant's ~~household, and~~ household. If the adopted animal is a  
37 dog used for fighting, the animal shelter shall notify any persons adopting the ~~dogs~~ dog  
38 of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67  
39 of the General Statutes. If no adoption can be arranged after the forfeiture, or ~~the dogs~~  
40 ~~are~~ animal is unsuitable for adoption, the shelter shall humanely euthanize the ~~dogs-~~  
41 animal.

42 (e) The deposit of funds shall not prevent the animal shelter from disposing of  
43 the ~~dogs animal~~ prior to the expiration of the 30-day period covered by the deposit if the  
44 court makes a final determination of the charges or claims against the defendant. Upon

1 ~~the adjudication of the charges, determination,~~ the defendant is entitled to a refund for  
2 any portion of the deposit not incurred as expenses by the animal shelter. ~~A person who~~  
3 ~~is adjudicated not guilty of the charges under G.S. 14-362.2 shall be entitled to a full~~  
4 ~~refund of the deposit.~~ A person who is acquitted of all criminal charges or not found to  
5 have committed animal cruelty in a civil action under Article 1 of this Chapter is  
6 entitled to a refund of the deposit remaining after any draws from the deposit in  
7 accordance with subsection (d) of this section.

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

17 **PART III. CLARIFY THAT THE PROHIBITION AGAINST DOGFIGHTING**  
18 **INCLUDES FIGHTS BETWEEN DOGS AND OTHER ANIMALS.**

19 **SECTION 3.1.** G.S. 14-362.2 reads as rewritten:

20 "**§ 14-362.2. Dog fighting and baiting.**

21 (a) A person who instigates, promotes, conducts, is employed at, provides a dog  
22 for, allows property under ~~his~~ the person's ownership or control to be used for, gambles  
23 on, or profits from an exhibition featuring the ~~fighting or~~ baiting of a dog or the  
24 fighting of a dog with another dog or with another animal is guilty of a Class H felony.  
25 A lease of property that is used or is intended to be used for an exhibition featuring the  
26 ~~fighting or~~ baiting of a dog or the fighting of a dog with another dog or with another  
27 animal is void, and a lessor who knows this use is made or is intended to be made of ~~his~~  
28 the lessor's property is under a duty to evict the lessee immediately.

29 (b) A person who owns, possesses, or trains a dog with the intent that the dog be  
30 used in an exhibition featuring the ~~fighting or~~ baiting of that dog or the fighting of that  
31 dog with another dog or with another animal is guilty of a Class H felony.

32 (c) A person who participates as a spectator at an exhibition featuring the  
33 ~~fighting or~~ baiting of a dog or the fighting of a dog with another dog or with another  
34 animal is guilty of a Class H felony."

35 **PART IV. EFFECTIVE DATE.**

36 **SECTION 4.1.** This act becomes effective December 1, 2006, and applies to  
37 actions commenced on or after that date.