

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 2098*
Committee Substitute Favorable 6/8/06
Senate Judiciary II Committee Substitute Adopted 6/26/06

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

1 "reasonable expenses" includes the cost of providing food, water, shelter, and care,
2 including medical care, for at least 30 days.

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

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

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

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

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

1 (e) The deposit of funds shall not prevent the animal shelter from disposing of
2 the ~~dogs~~ animal prior to the expiration of the 30-day period covered by the deposit if the
3 court makes a final determination of the charges or claims against the defendant. Upon
4 ~~the adjudication of the charges,~~ determination, the defendant is entitled to a refund for
5 any portion of the deposit not incurred as expenses by the animal shelter. ~~A person who~~
6 ~~is adjudicated not guilty of the charges under G.S. 14-362.2 shall be entitled to a full~~
7 ~~refund of the deposit.~~ A person who is acquitted of all criminal charges or not found to
8 have committed animal cruelty in a civil action under Article 1 of this Chapter is
9 entitled to a refund of the deposit remaining after any draws from the deposit in
10 accordance with subsection (d) of this section.

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

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

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

23 **"§ 14-362.2. Dog fighting and baiting.**

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

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

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

38 **PART IV. EFFECTIVE DATE.**

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