

Senate Bill 228

By: Senator Rogers of the 21st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 11 of Title 4 of the Official Code of Georgia Annotated,
2 relating to general provisions relative to animal protection, so as to change certain provisions
3 relating to inspections, impoundment of animals, and exceptions; to change certain
4 provisions relating to caring for an impounded animal; to repeal conflicting laws; and for
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 11 of Title 4 of the Official Code of Georgia Annotated, relating to
9 general provisions relative to animal protection, is amended by striking Code Section
10 4-11-9.2, relating to inspections, impoundment of animals, and exceptions, and inserting in
11 lieu thereof the following:

12 "4-11-9.2.

13 (a) At any time there is probable cause to believe that a violation of this article or any rule
14 or regulation adopted pursuant to this article has occurred, the Commissioner, his or her
15 designated agent, or an animal control officer who is an employee of state or local
16 government may apply to the appropriate court in the county in which the animal is located
17 for an inspection warrant under the provisions of Code Section 2-2-11.

18 (b) Any sheriff, deputy sheriff, or other peace officer shall have the authority to enforce
19 the provisions of this article and Code Sections 16-12-4 and 16-12-37.

20 (c) The Commissioner, his or her designated agent, an animal control officer who is an
21 employee of state or local government, or any sheriff, deputy sheriff, or other peace officer
22 is authorized to impound any animal:

23 (1) That has not received humane care;

24 (2) That has been subjected to cruelty in violation of Code Section 16-12-4;

25 (3) That is used or intended for use in any violation of Code Section 16-12-37; or

1 (4) If it is determined that a consent order or other order concerning the treatment of
2 animals issued pursuant to this article is being violated.

3 (d) Prior to an animal being impounded pursuant to paragraph (1), (2), or (3) of subsection
4 (c) of this Code section, a licensed ~~accredited~~ veterinarian approved by the Commissioner
5 or a veterinarian employed by a state or federal government and approved by the
6 Commissioner, shall, at the request of the Commissioner, his or her designee, an animal
7 control officer, a sheriff, a deputy sheriff, or other peace officer, examine and determine
8 the condition or treatment of the animal.

9 (d.1) The Commissioner, his or her designated agent, an animal control officer who is an
10 employee of state or local government, or any sheriff, deputy sheriff, or other peace officer
11 shall be authorized to impound any animal without an inspection warrant if:

12 (1) An animal is found to be severely injured or diseased;

13 (2) The animal's condition appears to be life threatening; and

14 (3) Immediate medical attention is necessary to save the animal's life or to lessen the
15 animal's suffering.

16 Under such exigent circumstances, the animal shall be taken for immediate medical
17 attention, not to exceed 72 hours, and examined by a licensed veterinarian approved by the
18 Commissioner or a veterinarian employed by a state or federal government and approved
19 by the Commissioner. Any authorized person acting in good faith who determines
20 immediate action under this Code section is required to protect an animal's health and
21 safety shall not be liable for taking such action.

22 (d.2) Notice of any impoundment must be given in accordance with Code Section
23 4-11-9.4.

24 (d.3) The Commissioner, his or her designated agent, an animal control officer who is an
25 employee of state or local government, or any sheriff, deputy sheriff, or other peace officer
26 who is impounding an animal may accept a voluntary relinquishment of such animal from
27 the owner at any time during the investigation. Consent to such voluntary relinquishment,
28 including a description of the animal and the owner's name, shall be provided in writing
29 by the owner.

30 (e) The provisions of this Code section and Code Sections 4-11-9.3 through 4-11-9.6 shall
31 not apply to scientific experiments or investigations conducted by or at an accredited
32 college or university in this state or research facility registered with the Commissioner or
33 the United States Department of Agriculture."

34 SECTION 2.

35 Said article is further amended by striking Code Section 4-11-9.3, relating to caring for an
36 impounded animal, and inserting in lieu thereof the following:

1 "4-11-9.3.

2 (a) It shall be the duty of any person impounding an animal under Code Section 4-11-9.2
3 to make reasonable and proper arrangements to provide the impounded animal with
4 humane care and adequate and necessary veterinary services. Such arrangements may
5 include, but shall not be limited to, providing shelter and care for the animal at any state,
6 federal, county, municipal, or governmental facility or shelter; contracting with a private
7 individual, partnership, corporation, association, or other entity to provide humane care and
8 adequate and necessary veterinary services for a reasonable fee; or allowing a private
9 individual, partnership, corporation, association, or other entity to provide humane care and
10 adequate and necessary veterinary services as a volunteer and at no cost.

11 (b) Any person impounding an animal under this article or providing care for an
12 impounded animal shall have a lien on such animal for the reasonable costs of caring for
13 such animal. Such lien may be foreclosed in any court that is competent to hear civil cases,
14 including, but not limited to, magistrate courts. Liens shall be foreclosed in magistrate
15 courts only when the amount of the lien does not exceed the jurisdictional limits
16 established by law for such courts.

17 (c) Any person impounding an animal under this article is authorized to return the animal
18 to its owner, upon payment by the owner of all costs of impoundment and care and upon
19 the entry of a consent order, ~~unless such owner was, in a prior administrative or legal action~~
20 ~~in this state or any other state, found to have failed to provide humane care to an animal,~~
21 ~~committed cruelty to animals, or engaged in dog fighting in violation of the laws of this~~
22 ~~state or of the United States or any of the several states.~~ Such consent order shall provide
23 conditions relating to the care and treatment of such animal, including, but not limited to,
24 the following, that:

25 (1) Such animal will be given humane care and adequate and necessary veterinary
26 services;

27 (2) Such animal will not be subjected to cruelty; and

28 (3) The owner will comply with this article.

29 (d) The provisions of subsection (c) of this Code section shall not apply to:

30 (1) To an animal that was an object or instrumentality of a crime ~~nor shall any such~~
31 ~~animal be returned to the owner without the approval of the prosecuting attorney. An~~
32 ~~agency having custody of an animal that was seized as an object or instrumentality of a~~
33 ~~crime may, with the consent of the prosecuting attorney, apply to the court having~~
34 ~~jurisdiction over the offense for an order authorizing such agency to dispose of the animal~~
35 ~~prior to trial of the criminal case as provided by law; or~~

36 (2) If in any prior administrative or legal action in this state or any other state the owner
37 was found to have failed to provide humane care to an animal, committed cruelty to

1 animals, or engaged in animal fighting or baiting in violation of the laws of this state or
2 of the United States or any of the several states.
3 (e) Any animal subject to paragraph (1) of subsection (d) of this Code section shall be
4 considered evidence. After impoundment, an agency having custody of such animal may
5 apply to the court having jurisdiction over the offense for an order authorizing the agency
6 to dispose of the animal in accordance with subsection (a) of Code Section 4-11-9.6 prior
7 to trial of the criminal case as provided by law. The agency making such application:
8 (1) Shall apply by motion requesting an order of forfeiture prior to criminal trial; and
9 (2) Must file with the motion an affidavit of the prosecutor consenting to the order.
10 Any order granting forfeiture of an animal will grant custody of the animal to the agency."

11

SECTION 3.

12 All laws and parts of laws in conflict with this Act are repealed.