

The House Committee on Judiciary offers the following substitute to SB 290:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 8 of Title 4, Chapter 14 of Title 4, and Article 2 of Chapter  
2 9 of Title 15 of the Official Code of Georgia Annotated, relating to responsible dog  
3 ownership, sterilization of dogs and cats in animal shelters, and jurisdiction, power, and  
4 duties of probate courts, respectively, so as to provide more opportunity to expeditiously  
5 handle dogs in the community that are alleged to be dangerous, vicious, or are otherwise in  
6 animal shelters; to clarify provisions relating to dog control officers; to provide probate  
7 courts the authority to hear contested dog classification and confiscation cases and appeals  
8 of such cases under certain circumstances; to shorten time frames for actions involving  
9 confiscation and classifications of dogs; to change provisions relating to payment of cost of  
10 recovery and euthanasia; to provide for and change definitions; to provide for an effective  
11 date and applicability; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Article 2 of Chapter 8 of Title 4 of the Official Code of Georgia Annotated, relating to  
15 responsible dog ownership, is amended by revising subsection (b) of Code Section 4-8-22,  
16 relating to designation of the dog control officer, as follows:

17 "(b) The governing authority of each local government shall designate ~~an individual~~ one  
18 or more individuals as dog control ~~officer~~ officers to aid in the administration and  
19 enforcement of the provisions of this article. An individual ~~A person~~ carrying out the  
20 duties of dog control officer shall not be authorized to make arrests unless ~~the person~~ he  
21 or she is a law enforcement officer having the powers of arrest."

22 **SECTION 2.**

23 Said article is further amended by revising Code Section 4-8-23, relating to investigations,  
24 notice, hearings, and determinations of dog control cases, as follows:

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25 "4-8-23.

26 (a) For purposes of this Code section, the term:

27 (1) 'Animal shelter' shall have the same meaning as set forth in Code Section 4-14-2.

28 ~~(1)~~(2) 'Authority' means an animal control board or local board of health, as determined  
 29 by the governing authority of a local government.

30 ~~(2)~~(3) 'Mail' means to send by certified mail or statutory overnight delivery to the  
 31 recipient's last known address.

32 (b) Upon receiving a report of a dog believed to be subject to classification as a dangerous  
 33 dog or vicious dog within a dog control officer's jurisdiction, the dog control officer shall  
 34 make such investigations as necessary to determine whether such dog is subject to  
 35 classification as a dangerous dog or vicious dog.

36 (c) When a dog control officer determines that a dog is subject to classification as a  
 37 dangerous dog or vicious dog, the dog control officer shall mail a dated notice to the dog's  
 38 owner within 72 hours. Such notice shall include a summary of the dog control officer's  
 39 determination and shall state that the owner has a right to request a hearing from the  
 40 authority on the dog control officer's determination within ~~15~~ seven days after the date  
 41 shown on the notice; provided, however, that if an authority has not been established for  
 42 the jurisdiction, the owner shall be informed of the right to request a hearing from the  
 43 probate court for such jurisdiction where the dog was found or confiscated within seven  
 44 days after the date shown on the notice. The notice shall ~~also~~ provide a form for requesting  
 45 the hearing and shall state that if a hearing is not requested within the allotted time, the dog  
 46 control officer's determination shall become effective for all purposes under this article.  
 47 If an owner cannot be located within ten days of a dog control officer's determination that  
 48 a dog is subject to classification as a dangerous dog or vicious dog, such dog may be  
 49 released to an animal shelter or humanely euthanized, as determined by the dog control  
 50 officer.

51 (d) When a hearing is requested by a dog owner in accordance with subsection (c) of this  
 52 Code section, such hearing shall be scheduled within 30 days after the request is received;  
 53 provided, however, that such hearing may be continued by the authority or probate court  
 54 for good cause shown. At least ten days prior to the hearing, the authority or probate court  
 55 conducting the hearing shall mail to the dog owner written notice of the date, time, and  
 56 place of the hearing. At the hearing, the dog owner shall be given the opportunity to testify  
 57 and present evidence and the authority or probate court conducting the hearing shall receive  
 58 other evidence and testimony as may be reasonably necessary to sustain, modify, or  
 59 overrule the dog control officer's determination.

60 (e) Within ten days after the hearing, the authority or probate court which conducted the  
 61 hearing shall mail written notice to the dog owner of its determination on the matter. If

62 such determination is that the dog is a dangerous dog or a vicious dog, the notice of  
 63 classification shall specify the date upon which that determination shall be effective. If the  
 64 determination is that the dog is to be euthanized pursuant to Code Section 4-8-26, the  
 65 notice shall specify the date by which the euthanasia shall occur.

66 (f) Judicial review of the authority's final decision may be had in accordance with Code  
 67 Section ~~50-13-19~~ 15-9-30.9. Judicial review of a probate court's final decision shall be in  
 68 accordance with Code Section 5-3-2 and costs shall be paid as provided in Code Section  
 69 5-3-22."

### 70 SECTION 3.

71 Said article is further amended by revising Code Section 4-8-30, relating to payment of costs  
 72 for recovery, as follows:

73 "4-8-30.

74 (a) A dangerous dog or vicious dog shall be immediately confiscated by any dog control  
 75 officer or by a law enforcement officer in the case of any violation of this article. A refusal  
 76 to surrender a dog subject to confiscation shall be a violation of this article.

77 (b) The owner of any dog that has been confiscated pursuant to this article may recover  
 78 such dog upon payment of all reasonable confiscation and housing costs and proof of  
 79 compliance with the provisions of this article, unless such confiscation is deemed to be in  
 80 error by a dog control officer, an authority, as defined in Code Section 4-8-23, or a probate  
 81 court. All fines and all charges for services performed by a law enforcement or dog control  
 82 officer shall be paid prior to owner recovery of the dog. Criminal prosecution shall not be  
 83 stayed due to owner recovery or euthanasia of the dog.

84 (c) In the event the owner has not complied with the provisions of this article within ~~20~~ 14  
 85 days of the date the dog was confiscated, such dog shall be ~~destroyed~~ released to an animal  
 86 shelter, as such term is defined in Code Section 4-14-2, or euthanized in an expeditious and  
 87 humane manner ~~and the~~. The owner may be required to pay the costs of housing and  
 88 euthanasia."

### 89 SECTION 4.

90 Chapter 14 of Title 4 of the Official Code of Georgia Annotated, relating to sterilizations of  
 91 dogs and cats in animal shelters, is amended by revising paragraph (5) of Code Section  
 92 4-14-2, relating to definitions, as follows:

93 "(5) 'Sterilization' means rendering a dog or cat unable to reproduce by the surgical  
 94 removal of ~~the its~~ reproductive organs of a dog or cat in order to render the animal unable  
 95 ~~to reproduce~~ or by rendering a dog unable to reproduce by intratesticular injection

96 approved by the federal government pursuant to 21 U.S.C. Section 360 as of March 7,  
97 2014."

98 **SECTION 5.**

99 Article 2 of Chapter 9 of Title 15 of the Official Code of Georgia Annotated, relating to  
100 jurisdiction, power, and duties of probate courts, is amended by adding a new Code section  
101 to read as follows:

102 "15-9-30.9.

103 (a) In addition to any other jurisdiction vested in the probate courts, such courts shall have  
104 the right and power to hear cases of violations of Article 2 of Chapter 8 of Title 4 and to  
105 impose:

106 (1) Civil penalties for such violations, other than euthanasia; and

107 (2) Criminal penalties for such violations as provided by Code Section 4-8-32.

108 (b) An appeal from a decision by an animal control board or local board of health pursuant  
109 to subsection (f) of Code Section 4-8-23 shall lie in probate court. No appeal shall be heard  
110 in probate court until costs which have accrued in the tribunal below have been paid, unless  
111 the appellant files with the probate court or with the tribunal appealed from an affidavit  
112 stating that because of indigence he or she is unable to pay the costs on appeal. In all cases,  
113 no appeal shall be dismissed in the probate court because of nonpayment of the costs below  
114 until the appellant has been directed by the court to do so and has failed to comply with the  
115 court's direction.

116 (c) Filing of the notice of appeal and payment of costs or filing of an affidavit as provided  
117 in subsection (b) of this Code section shall act as supersedeas, and it shall not be necessary  
118 that a supersedeas bond be filed; provided, however, that the probate court upon motion  
119 may at any time require that supersedeas bond with good security be given in such amount  
120 as the court may deem necessary unless the appellant files with the court an affidavit  
121 stating that because of indigence he or she is unable to give bond."

122 **SECTION 6.**

123 This Act shall become effective on July 1, 2014, and shall apply to all violations and  
124 confiscations which occur on or after that date.

125 **SECTION 7.**

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