

Senate Bill 173

By: Senators Stone of the 23rd, Cowser of the 46th, Hill of the 4th, Millar of the 40th, Unterman of the 45th and others

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 for animal protection, so as to create provisions relating to the  
3 payment of expenses while an animal is impounded; to provide for procedure; to provide for  
4 related matters; to provide for an effective date; to repeal conflicting laws; and for other  
5 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 for animal protection, is amended by revising Code Section 4-11-9.3,  
10 relating to caring for an impounded animal, as follows:

11 "4-11-9.3.

12 (a) It shall be the duty of any person impounding an animal under Code Section 4-11-9.2  
13 to make reasonable and proper arrangements to provide the impounded animal with  
14 humane care ~~and adequate and necessary veterinary services~~. Such arrangements may  
15 include, but shall not be limited to, providing shelter and care for the animal at any state,  
16 federal, county, municipal, or governmental facility or shelter; contracting with a private  
17 individual, partnership, corporation, association, or other entity to provide humane care ~~and~~  
18 ~~adequate and necessary veterinary services~~ for a reasonable fee; or allowing a private  
19 individual, partnership, corporation, association, or other entity to provide humane care ~~and~~  
20 ~~adequate and necessary veterinary services~~ as a volunteer and at no cost.

21 (b) Any person impounding an animal under this article or otherwise providing humane  
22 care for an impounded animal shall ~~have~~:

23 (1) Have a lien on such animal for the reasonable costs of caring for such animal. Such  
24 lien may be foreclosed in any court that is competent to hear civil cases, including, but  
25 not limited to, magistrate courts. Liens shall be foreclosed in magistrate courts only when  
26 the amount of the lien does not exceed the jurisdictional limits established by law for  
27 such courts; and

28 (2) Have the right to file a cost of animal care petition with any court that is competent  
29 to hear civil cases, including, but not limited to, magistrate courts, provided that the court  
30 has personal jurisdiction over the animal's owner or if the animal's owner is not  
31 reasonably ascertainable, the court has personal jurisdiction over the person from whom  
32 the animal was seized, and provided further that the amount sought does not exceed the  
33 jurisdictional limits established by law for such courts.

34 (c) A cost of animal care petition shall contain:

35 (1) The authority for and purpose of the impoundment, including the time, place, and  
36 circumstances of the impoundment, and the facts regarding any animal cruelty or  
37 fighting;

38 (2) A description of each animal seized, including its current condition and any facts  
39 demonstrating the animal's disease, injury, or suffering; and

40 (3) If the person from whom the animal is impounded is not the animal's owner, the  
41 name and address of the owner, if such information is available to the petitioner upon  
42 reasonable investigation. If the owner's name and address is not available to the  
43 petitioner upon reasonable investigation, then the petition shall include the name and  
44 address of the person from whom the animal was seized.

45 (d) A petitioner shall personally serve a true and correct copy of the cost of animal care  
46 petition upon the animal's owner. If, after reasonable investigation, the owner cannot be  
47 ascertained or the name and address of the owner cannot be determined, then the petition  
48 shall be served on the person from whom the animal was seized and posted in a  
49 conspicuous place at the location where the animal was seized and published once in a  
50 newspaper of general circulation in the county where the animal was seized.

51 (e) The court shall set the cost of animal care petition for hearing at the earliest practicable  
52 time, but not more 21 days after such petition was filed. The court shall, not less than five  
53 days prior to the hearing, notify the animal's owner, or if the owner is not reasonably  
54 ascertainable, the person from whom the animal was seized, in writing by first-class mail  
55 of the date and location of the hearing. If the owner's name and address is not set forth in  
56 such petition, then such notice shall be posted in a conspicuous place at the location where  
57 the animal was seized.

58 (f) At the hearing held pursuant to subsection (e) of this Code section, the petitioner shall  
59 present evidence that demonstrates:

60 (1) That the impoundment was authorized pursuant to subsection (c) of Code Section  
61 4-11-9.2;

62 (2) The amount of reasonable costs of care for the impounded animal for 30 days; and

63 (3) Proof of service of the petition on:

64 (A) The animal's owner;

65 (B) The person from whom the animal was seized; or  
66 (C) If the owner's name and address is not available to the petitioner upon reasonable  
67 investigation and service cannot be made on the person from whom the animal was  
68 seized, then proof that the petition was posted and published in accordance with  
69 subsection (d) of this Code section.

70 (g)(1) When a petitioner has sufficiently proven his or her case by a preponderance of  
71 the evidence, the court shall issue a cost of care order that requires setting aside funds in  
72 an amount sufficient to cover the reasonable costs of providing humane care to the  
73 impounded animal for a period of 30 days. Such funds shall be paid by the animal's  
74 owner to the municipal or county treasurer or as otherwise directed by the court.

75 (2) The animal's owner shall be required to post the same amount set in the cost of care  
76 order every 30 days until the final disposition of the related criminal matter for violations  
77 of Code Section 16-12-4 or 16-12-37 or the civil impoundment pursuant to paragraph (1)  
78 or (4) of subsection (c) of Code Section 4-11-9.2, unless such owner requests a hearing  
79 within five business days prior to the expiration of each 30 day period. If the funds are  
80 not deposited or contested within five business days of the issuance of the cost of care  
81 order, or within five business days after the expiration of a 30 day period, then such  
82 animal shall be forfeited to the petitioner by operation of law.

83 (3) The court may correct, alter, or otherwise adjust the amount of funds under the cost  
84 of care order upon a motion by either party made at least five days before the expiration  
85 date of the previous 30 day period. A hearing for an adjustment of funds required to be  
86 set aside shall be held within ten days of the motion, and the payment of such funds will  
87 be due five days after the court orders, or refuses to order, an adjustment.

88 (4) If funds have been posted in accordance with this subsection, then upon affidavit  
89 filed with the court the person caring for the impounded animal may draw from the funds  
90 periodically the actual costs incurred in keeping and caring for the animal from the date  
91 of the order granting the cost of care petition through the date of the final disposition of  
92 the animal in the related criminal matter, such draw to be made in the manner prescribed  
93 by the court.

94 (h)(1) If charges for violations of Code Section 16-12-4 or 16-12-37 do not result in any  
95 conviction or if the civil impoundment is dismissed or not upheld and if all costs ordered  
96 to be paid under subsection (g) of this Code section have been timely paid, the animal's  
97 owner shall have the right to repossession of the animal.

98 (2) Upon final disposition of the related civil or criminal matter, any remaining funds  
99 deposited with the municipal or county treasurer or other repository directed by the court  
100 shall be returned to the animal's owner.

101 ~~(e)~~(i) Any person impounding an animal under this article shall be authorized to return  
 102 such animal to its owner, upon payment by the owner of all costs of impoundment and care  
 103 and upon the entry of a consent order, unless such owner, in a prior administrative or legal  
 104 action in this state or any other state, was found to have failed to provide humane care to  
 105 an animal, committed cruelty to animals, or committed an act prohibited under Code  
 106 Section 16-12-37 in violation of the laws of this state or of the United States or any of the  
 107 several states. Such consent order shall provide conditions relating to the care and  
 108 treatment of such animal, including, but not limited to, the following, that:

109 (1) Such animal shall be given humane care ~~and adequate and necessary veterinary~~  
 110 ~~services;~~

111 (2) Such animal shall not be subjected to cruelty; and

112 (3) The owner shall comply with this article.

113 ~~(d)~~(j) The provisions of subsection ~~(e)~~ (i) of this Code section shall not apply to an animal  
 114 that was an object or instrumentality of a crime nor shall any such animal be returned to  
 115 the owner without the approval of the prosecuting attorney. A person ~~An agency~~ having  
 116 custody of an animal that was seized and impounded as an object or instrumentality of a  
 117 crime may, with the consent of the prosecuting attorney, apply to the court having  
 118 jurisdiction over the offense for an order authorizing such ~~agency~~ person to dispose of the  
 119 animal prior to trial of the criminal case as provided by law."

120 **SECTION 2.**

121 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 122 without such approval.

123 **SECTION 3.**

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