

Senate Bill 356

By: Senators Williams of the 27th, Stone of the 23rd, Unterman of the 45th and Cowsert of the 46th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 4 of the Official Code of Georgia Annotated, relating to animals, so as to
2 provide a definition of the term "owner"; to provide for impoundment of animals for any
3 violation of Article 1 of Chapter 11 of said title; to revise provisions relating to caring for an
4 impounded animal; to modify provisions regarding the circumstances under which an
5 impounded animal may be returned to its owner; to modify provisions related to the disposal
6 of impounded animals; to create a process for a petition for recoupment of expenses of
7 impoundment; to provide for procedures regarding same; to provide for the foreclosure of
8 liens on animals; to amend Article 1 of Chapter 10 of Title 15 of the Official Code of
9 Georgia Annotated, relating to magistrate courts, so as to provide for the foreclosure of liens
10 on animals; to provide for related matters; to provide for an effective date; to repeal
11 conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Title 4 of the Official Code of Georgia Annotated, relating to animals, is amended by adding
15 a new paragraph to Code Section 4-11-2, relating to definitions, to read as follows:

16 "(5.1) 'Owner' means a person who intentionally exercises custody, control, possession,
17 or ownership of an animal."

18 **SECTION 2.**

19 Said title is further amended by revising paragraph (4) of subsection (c) of Code Section
20 4-11-9.2, relating to inspections, impoundment of animals, and exceptions, as follows:

21 "(4) If it is determined that a consent order or other order concerning the treatment of
22 animals issued pursuant to this article is being violated any violation of this article has
23 occurred."

24 **SECTION 3.**

25 Said title is further amended by revising Code Section 4-11-9.3, relating to caring for
 26 impounded animals, as follows:

27 "4-11-9.3.

28 (a) It shall be the duty of any person impounding an animal under Code Section 4-11-9.2,
 29 16-12-4, or 16-12-37 to make reasonable and proper arrangements to provide the
 30 impounded animal with humane care and adequate and necessary veterinary services. Such
 31 arrangements may include, but shall not be limited to, providing shelter and care for the
 32 animal at any state, federal, county, municipal, or governmental facility or shelter;
 33 contracting with a private individual, partnership, corporation, association, or other entity
 34 to provide humane care and adequate and necessary veterinary services for a reasonable
 35 fee; or allowing a private individual, partnership, corporation, association, or other entity
 36 to provide humane care and adequate and necessary veterinary services as a volunteer and
 37 at no cost.

38 (b) Any person impounding an animal under this article or Code Section 16-12-4 or
 39 16-12-37 or providing care for an impounded animal shall have a lien on such animal for
 40 the reasonable costs of caring for such animal. Such lien may be foreclosed in any court
 41 ~~that is of competent jurisdiction to hear civil cases, including, but not limited to, magistrate~~
 42 ~~courts.~~ Liens shall be foreclosed in magistrate courts only when the amount of the lien
 43 does not exceed the jurisdictional limits established by law for such courts.

44 (c) Any person impounding an animal under this article shall be authorized to return such
 45 animal to its owner, upon payment by the owner of all costs of impoundment and care and
 46 upon the entry of a consent order, unless such owner; has been convicted of, pled guilty to,
 47 or pled nolo contendere to animal cruelty or dog fighting under any local, state, or federal
 48 law, regulation, or ordinance, or in a prior administrative or legal action in this state or any
 49 other state, was found to have failed to provide humane care to an animal, committed
 50 cruelty to animals, or committed an act prohibited under Code Section 16-12-37 in
 51 violation of the laws of this state or of the United States or any of the several states. Such
 52 consent order shall provide conditions relating to the care and treatment of such animal,
 53 including, but not limited to, the following, that:

54 (1) Such animal shall be given humane care and adequate and necessary veterinary
 55 services;

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

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

58 (d)(1) The provisions of subsection (c) of this Code section shall not apply to an animal
 59 that was an object or instrumentality of a crime ~~nor shall any such animal be returned to~~
 60 ~~the owner without the approval of the prosecuting attorney.~~ Any agency impounding an

61 animal as a result of a violation of Code Section 4-11-9.2, 16-12-4, or 16-12-37 shall not
 62 return such animal to its owner.

63 (2) Any An agency having custody of an animal that was seized as an object or
 64 instrumentality of a crime may, with the consent of the prosecuting attorney, apply to the
 65 court having jurisdiction over the offense for an order authorizing such agency to dispose
 66 of the animal prior to trial of the criminal case as provided by law."

67 **SECTION 4.**

68 Said title is further amended by revising subparagraph (b)(6)(B) of Code Section 4-11-9.5,
 69 relating to failure to respond to notice of impoundment, right to a hearing, care, and crime
 70 exception, as follows:

71 "(B) Unless, in a prior administrative or legal action in this state or any other state, the
 72 owner has been found to have failed to provide humane care to an animal, committed
 73 cruelty to animals, ~~or engaged in dog fighting, committed an act prohibited under Code~~
 74 Section 16-12-4, committed an act prohibited under Code Section 16-12-37, or
 75 committed an act in violation of any similar local ordinance or regulation, the laws of
 76 this state, or of the United States, or any of the several states, recommend conditions
 77 under which the animal may, upon payment by the owner of all costs of impoundment
 78 and care, be returned to the owner. Such conditions shall be reduced to writing and
 79 served upon the owner and the government agency having custody of the animal. Such
 80 conditions may include, but are not limited to, the following, that:

- 81 (i) Such animal shall be given humane care and adequate and necessary veterinary
 82 services;
 83 (ii) Such animal shall not be subjected to mistreatment; and
 84 (iii) The owner shall comply with this article."

85 **SECTION 5.**

86 Said title is further amended by revising subsection (a) of Code Section 4-11-9.6, relating to
 87 disposal of impounded animals, as follows:

88 "(a) The government agency having custody of an animal impounded pursuant to this
 89 article which is not returned to the owner as provided in Code Sections 4-11-9.3 and
 90 4-11-9.5, or when ownership of the animal is relinquished by the owner, may dispose of
 91 the animal through sale by any commercially feasible means, at a public auction or by
 92 sealed bids, adoption, or, if in the opinion of a licensed accredited veterinarian or a
 93 veterinarian employed by a state or federal government and approved by the Commissioner
 94 such animal has a temperament or condition such that euthanasia is the only reasonable
 95 course of action, by humanely disposing of the animal."

SECTION 6.

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Said title is further amended by adding a new Code section to read as follows:

"4-11-9.8.

(a) Any agency impounding one or more animals as part of any investigation of a violation of Code Section 4-11-9.2, 16-12-4, or 16-12-37, or otherwise providing care for one or more animals impounded pursuant to this article, may file a petition in a court of competent jurisdiction to hear civil cases requesting the court to require the owner of the animal or animals to pay into the registry of such court funds in an amount sufficient to secure payment of all anticipated costs of impoundment and care.

(b) Every such petition shall contain a description of the time, place, and circumstances of the impoundment, the legal authority for same, and the name and address of the owner of the animal or animals impounded.

(c) Any sheriff, deputy sheriff, or other sworn peace officer shall personally serve written process of the petition on the owner of the animal or animals. If the officer is unable to personally serve written process of the petition on the owner of the animal or animals within 30 days of the date of filing of the petition, the officer shall within ten days thereafter post a copy of the petition on the door of the residence of the owner or in another conspicuous place at the location where the animal or animals were impounded.

(d)(1) Upon the court's receipt of return of service of process of the petition on the owner, the court shall set a hearing on the petition to determine the need to care for and provide for the animal or animals pending the final disposition of the animal or animals. The hearing shall be conducted no less than ten and no more than 15 business days after the court's receipt of return of service of process of the petition on the owner. Any sheriff, deputy sheriff, or other sworn peace officer shall be authorized to serve written notice on the owner of the date, time, and location of the hearing. If no name and address for the owner are set forth in the petition, then such notice shall be posted in a conspicuous place at the location where the animal or animals were impounded.

(2) The scope of the hearing shall be limited to whether the impounding of the animal or animals was authorized. Upon such a showing, the court shall require payment into the registry of the court of an amount sufficient to cover all costs of impoundment and care, as determined by the court, for a period beginning as of the date of impoundment and ending 30 days after the date of the order. Neither the result of a hearing provided for under this subsection nor a statement of an owner made at any such hearing shall be admissible in any criminal prosecution related to the impoundment of the animal or animals.

(3) The owner shall be ordered to deposit an amount equal to the portion of the original deposit amount attributable to the first 30 days after the date of the initial order every 30

133 days thereafter until the owner relinquishes the animal or animals or until final
134 disposition of the animal or animals. If the required funds are not deposited within five
135 days of the original order setting the amount of the funds, or within five days after the
136 expiration of each applicable subsequent 30 day period, then the animal or animals shall
137 be forfeited to the petitioning agency by operation of law and may, with the consent of
138 any prosecutor prosecuting charges against the owner regarding the owner's animal or
139 animals, be disposed of pursuant to Code Section 4-11-9.6.

140 (4) At any time before the final disposition of the animal or animals, the owner may
141 relinquish ownership of the animal or animals. All costs of impoundment and care for
142 the animal or animals from the date of impoundment to the date of the relinquishment
143 shall be paid by the owner unless the owner meets the requirements set forth in
144 paragraph (5) of this subsection.

145 (5) In circumstances where only one animal was impounded, and the owner of the animal
146 is, at the initial hearing or at an adjustment hearing, able to prove indigency as described
147 in Chapter 12 of Title 17, the court, in its discretion, may reduce or waive the requirement
148 for the owner to pay costs of impoundment and care pursuant to this Code section.

149 (6) The court may correct, alter, or otherwise adjust the owner's 30 day obligation of
150 payment upon a motion made by the owner or petitioning agency at least five days before
151 the expiration date of the then current 30 day payment period. The hearing shall be held
152 within ten days of service of the motion on the opposite party, and any adjustment to the
153 30 day payment amount shall become effective five days after the court orders, or refuses
154 to order, an adjustment.

155 (7) Upon the payment of funds into the court registry in accordance with this Code
156 section, the petitioning agency may immediately begin to draw from those funds for
157 payment of the actual costs incurred by the petitioning agency in keeping and caring for
158 the animal or animals from the date of impoundment to the date of the final disposition
159 of the underlying criminal action regarding the owner and the animal or animals.

160 (8) Upon final disposition of the animal or animals, remaining funds deposited with the
161 clerk of the court shall be refunded to the owner.

162 (9) In the event that an owner is adjudicated not guilty of all charges specified in a
163 petition filed pursuant to this Code section, such owner may request from the agency that
164 filed the petition a refund of all costs paid by the owner pursuant to such petition. In
165 making any such claim for refund, the procedures provided in Code Section 48-5-380
166 shall apply."

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SECTION 7.

168 Said title is further amended by revising subsection (b) of Code Section 4-13-5, relating to
169 liens for care of impounded equines, as follows:

170 "(b) The lien acquired under subsection (a) of this Code section may be foreclosed in any
171 court ~~which is of competent jurisdiction to hear civil cases, including, but not limited to,~~
172 ~~magistrate courts.~~ Liens shall be foreclosed in magistrate courts only when the amount of
173 the lien does not exceed the jurisdictional limits established by law for such courts."

174 **SECTION 8.**

175 Article 1 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to
176 magistrate courts, is amended in Code Section 15-10-2, relating to general jurisdiction, by
177 deleting "and" at the end of paragraph (13), by replacing the period with "; and" at the end
178 of paragraph (14), and by adding a new paragraph to read as follows:

179 "(15) The foreclosure of liens on animals as established in Title 4."

180 **SECTION 9.**

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

183 **SECTION 10.**

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