**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3682**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Murphy, Wetmore, Bailey, Rose, Crawford, Brewer, Taylor, Hardee, Wooten, Pope, McDaniel, Hewitt, Bauer, Yow, J.E. Johnson, Willis, Ligon, Lawson, Robbins, Schuessler, Guest, Henegan, Williams, M.M. Smith and Vaughan

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Introduced in the House on January 12, 2023

Introduced in the Senate on March 30, 2023

Last Amended on March 29, 2023

Currently residing in the House

Summary: Animal Cruelty

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/12/2023 House Introduced and read first time (House Journal‑page 335)

 1/12/2023 House Referred to Committee on **Judiciary** (House Journal‑page 335)

 1/19/2023 House Member(s) request name added as sponsor: Taylor

 1/24/2023 House Member(s) request name added as sponsor: Hardee

 1/25/2023 House Member(s) request name added as sponsor: Wooten,
 Pope, McDaniel

 1/31/2023 House Member(s) request name added as sponsor: Hewitt, Bauer

 2/2/2023 House Member(s) request name added as sponsor: Yow

 2/15/2023 House Member(s) request name added as sponsor: J.E.
 Johnson, Willis

 2/16/2023 House Member(s) request name added as sponsor: Ligon, Lawson

 2/23/2023 House Member(s) request name added as sponsor: Robbins,
 Schuessler, Guest

 2/28/2023 House Member(s) request name added as sponsor: Henegan,
 Williams

 3/1/2023 House Committee report: Favorable with amendment **Judiciary** (House Journal‑page 37)

 3/7/2023 House Member(s) request name added as sponsor: M.M. Smith

 3/7/2023 House Requests for debate-Rep(s). Ott, Rutherford, Jefferson, Tedder, Thigpen, Kirby, JA Moore, Wetmore, Bauer, Dilliard, Long, Rivers, Gilliard, Anderson, McDaniel, Cromer, Taylor, Hixon, McCravy, Ligon, Pope, JL Johnson (House Journal‑page 35)

 3/15/2023 House Member(s) request name added as sponsor: Vaughan

 3/29/2023 House Amended (House Journal‑page 76)

 3/29/2023 House Read second time (House Journal‑page 76)

 3/29/2023 House Roll call Yeas-110 Nays-0 (House Journal‑page 79)

 3/30/2023 House Read third time and sent to Senate (House Journal‑page 49)

 3/30/2023 Senate Introduced and read first time (Senate Journal‑page 7)

 3/30/2023 Senate Referred to Committee on **Agriculture and Natural Resources** (Senate Journal‑page 7)

 3/31/2023 Scrivener's error corrected

 5/2/2023 Senate Committee report: Favorable with amendment **Agriculture and Natural Resources** (Senate Journal‑page 19)

 5/3/2023 Scrivener's error corrected

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=3682&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[01/12/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3682_20230112.docx)

[03/01/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3682_20230301.docx)

[03/29/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3682_20230329.docx)

[03/31/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3682_20230331.docx)

[05/02/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3682_20230502.docx)

[05/03/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3682_20230503.docx)

Indicates Matter Stricken

Indicates New Matter

Committee Report

May 2, 2023

H. 3682

Introduced by Reps. Murphy, Wetmore, Bailey, Rose, Crawford, Brewer, Taylor, Hardee, Wooten, Pope, McDaniel, Hewitt, Bauer, Yow, J. E. Johnson, Willis, Ligon, Lawson, Robbins, Schuessler, Guest, Henegan, Williams, M. M. Smith and Vaughan

S. Printed 05/02/23--S. [SEC 5/3/2023 12:16 PM]

Read the first time March 30, 2023

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The committee on senate Agriculture and Natural Resources

To who was referred a Bill (H. 3682) to amend the South Carolina Code of Laws by amending Section 47‑1‑140, relating to the care of animals after the arrest of the owner, so as to remove provisions, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

SECTION 1. Section 47‑1‑140 of the S.C. Code is amended to read:

 Section 47‑1‑140. The law enforcement officer making the arrest, with or without warrant, shall use reasonable diligence to give notice to the owner of the animals found in the charge or custody of the person arrested, if the person is not the owner, and shall care and provide properly for the animals. The law enforcement officer making the arrest shall have a lien on the animals for the expense of such care and provision unless the charge is dismissed or nol prossed or the person is found not guilty, then the lien is extinguished. The lien also may be extinguished by an agreement between the person charged and the prosecuting agency or the law enforcement agency in custody of the animal. Notwithstanding any other provision of law, an animal may be seized preceding an arrest and pursuant to Section 47‑1‑150.

SECTION 2. Section 47‑1‑145 of the S.C. Code is amended to read:

 Section 47‑1‑145. (A)(1) Any person, organization Notwithstanding another provision of law, any sheriff, deputy sheriff, deputy state constable, constable, law enforcement officer, or other entity that is awarded custody of an animal under the provisions of Section 47‑1‑150 or who has seized an animal because of the arrest of a defendant for a violation of any provision of Chapter 1, Title 47 or Chapter 27, Title 16 and that provides services to the animal without compensation may file a petition with the a court of competent jurisdiction to hear civil cases requesting that the defendant, if found guilty, be ordered the court to require the owner of the animal or animals to deposit funds at specified intervals in an amount sufficient to secure payment of all the reasonable expenses incurred by the custodian in caring for and providing for the animal anticipated costs of the seizure and care of the animals pending the disposition of the litigation. In the absence of a conviction, the county or municipality making the arrest shall pay the reasonable expenses of the custodian. For purposes of this section, “court” refers to municipal or magistrates court, and “reasonable expenses” includes the cost of providing food, water, shelter, and care, including medical care, but does not include extraordinary medical procedures.

 (B) The court shall, at the time of adjudication, determine the actual cost of care for the animal that the custodian incurred pursuant to subsection (A). Either party may demand that the trial be given priority over other cases.

 (C)(1) If the court makes a final determination of the charges or claims against the defendant in his favor, then the defendant may recover custody of his animal.

 (2) If the defendant is found guilty, then the custodian of the animal may then determine if the animal is suitable for adoption and if adoption can be arranged for the animal. The animal may not be adopted by the defendant or by any person residing in the defendant's household if the defendant was found guilty. If no adoption can be arranged after the forfeiture or if the animal is unsuitable for adoption, then the custodian shall humanely euthanize the animal.

 (D) Within thirty days of an animal's impoundment, the animal's custodian must provide a good faith estimate, pursuant to subsection (A), of the daily custodial cost of the impounded animal. Upon receipt of the good faith estimate, the court shall then issue a notice to the defendant about his impounded animal that includes:

 (1) an estimate of the daily custodial costs required to care for the animal;

 (2) a statement that the defendant, if found guilty, shall be required to pay for the animal's care during impoundment; and

 (3) a statement that the defendant, At any time prior to final adjudication, the owner has the right to forfeit ownership of the animal and avoid all future custodial costs related to the animal’s care but not costs already accrued, beginning with the date of the seizure.

 (4) If the charge is dismissed, nol prossed, or the defendant is found not guilty, then the petitioner must reimburse the defendant the amount of all costs of seizure and care of the animal imposed by the court paid by the defendant, plus interest and court costs.

 (B)(1) Every petition filed pursuant to subsection (A) shall contain a description of the time, place, and circumstances of the seizure, the legal authority for the seizure, and the name and address of the owner of the animal seized.

 (2) Any sheriff, deputy sheriff, deputy state constable, constable, or other law enforcement officer shall personally serve written process of the petition on the owner of the animal. If the officer is unable to personally serve written process of the petition on the owner of the animal within thirty days of the filing of the petition, the officers 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 was seized.

 (C)(1)(a) Upon the court’s receipt of return 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 pending the final disposition of the animal. The hearing shall be conducted no less than ten days and no more than fifteen business days after the court’s receipt of return of service of process of the petition on the owner. Any sheriff, deputy sheriff, deputy state constable, constable, or other law enforcement officer is 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 seized.

 (b) If the owner is financially unable to retain counsel then counsel shall be provided upon order of the appropriate judge pursuant to Chapter 3, Title 17, unless the owner voluntarily and intelligently waives court appointed counsel.

 (c) The court may waive or reduce the requirement for the owner to pay the costs of seizure and care pursuant to this section if the owner is indigent.

 (2) The scope of the hearing is limited to whether probable cause existed to seize the animal. Upon such a showing, the court shall require payment into the registry of the court of an amount sufficient to cover all costs of seizure and care, as determined by the court, for a period beginning as of the date of seizure and ending thirty days after the date of the order. Neither the result of a hearing provided for under this section nor a statement of an owner made at any such hearing shall be admissible in any criminal prosecution related to the seizure of the animal.

 (3) The owner shall be ordered to deposit an amount equal to the portion of the original deposit amount attributable to the first thirty days after the date of the initial order and every thirty days thereafter until the owner relinquishes the animal or until the final disposition of the animal. If the required funds are not deposited within five days of the original order setting the amount of funds, or within five days after the expiration of each applicable subsequent thirty‑day period, then the animal shall be forfeited to the petitioning agency by operation of law and may, with the consent or any prosecutor prosecuting charges against the owner regarding the owner’s animal, be disposed of via transfer to another person or entity capable of providing care or other humane disposition.

 (4) The court may correct, alter, or otherwise adjust the owner’s thirty‑day obligation of payment upon a motion made by the owner of the petition agency at least five days before the expiration date of the then current thirty‑day payment period. The hearing shall be held within ten days of service of the motion on the opposing party, and any adjustment to the thirty‑day payment amount shall become effective five days after the court orders, or refuses to order, an adjustment.

 (D)(1) Upon the deposit of funds with the court in accordance with this section, the petitioning agency may immediately begin to draw from those funds for payment of the actual costs incurred by the petitioning agency in keeping and caring for the animal from the date of seizure to the date of the final disposition of the underlying criminal action regarding the owner and the animal.

 (2) Upon final disposition of the animal, remaining funds deposited with the court shall be refunded to the owner.

 (E) The remedy provided for in this section is in addition to any other remedy provided by law.

SECTION 3. Section 47‑1‑170 of the S.C. Code is amended to read:

 Section 47‑1‑170. The owner or person having charge or custody of an animal cruelly used who is convicted of any violation of this chapter forfeits ownership, charge, or custody of the animal and at the discretion of the court, the person who is charged with or convicted of a violation of this chapter must may be ordered, if not previously ordered, to pay costs incurred to care for the animal and related expenses.

SECTION 4. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

WESLEY CLIMER for Committee.

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 47‑1‑140, RELATING TO THE CARE OF ANIMALS AFTER the ARREST OF THE OWNER, SO AS TO REMOVE PROVISIONS REGARDING A LIEN ON THE SEIZED ANIMAL; BY AMENDING SECTION 47‑1‑145, RELATING TO CUSTODY AND CARE OF ANIMALS AFTER the ARREST of the owner, SO AS TO OUTLINE HEARING PROCEDURES FOR ORDERING THE COST OF CARE OF THE seized ANIMALS; AND BY AMENDING SECTION 47‑1‑170, RELATING TO PENALTIES FOR ANIMAL CRUELTY, SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 47‑1‑140 of the S.C. Code is amended to read:

 Section 47‑1‑140. The law enforcement officer making the arrest, with or without warrant, shall use reasonable diligence to give notice to the owner of the animals found in the charge or custody of the person arrested, if the person is not the owner, and shall care and provide properly for the animals. The law enforcement officer making the arrest shall have a lien on the animals for the expense of such care and provision unless the charge is dismissed or nol prossed or the person is found not guilty, then the lien is extinguished. The lien also may be extinguished by an agreement between the person charged and the prosecuting agency or the law enforcement agency in custody of the animal. Notwithstanding any other provision of law, an animal may be seized preceding an arrest and pursuant to Section 47‑1‑150.

SECTION 2. Section 47-1-145 of the S.C. Code is amended to read:

 Section 47-1-145. (A)(1) Any person, organization,Notwithstanding another provision of law, any sheriff, deputy sheriff, deputy constable, constable, law enforcement officer, or other entity that is awarded custody of an animal under the provisions of Section 47-1-150 or who has seized an animal because of the arrest of a defendant for a violation of any provision of Chapter 1, Title 47 or Chapter 27, Title 16 and that provides services to the animal without compensation may file a petition with thea court of competent jurisdiction to hear civil cases requesting that the defendant, if found guilty, be ordered the court to require the owner of the animal or animals to deposit funds at specified intervals in an amount sufficient to secure payment of all the reasonable expenses incurred by the custodian in caring for and providing for the animal anticipated costs of the seizure and care of the animals pending the disposition of the litigation. In the absence of a conviction, the county or municipality making the arrest shall pay the reasonable expenses of the custodian. For purposes of this section, “court” refers to municipal or magistrates court, and “reasonable expenses” includes the cost of providing food, water, shelter, and care, including medical care, but does not include extraordinary medical procedures.

 (B) The court shall, at the time of adjudication, determine the actual cost of care for the animal that the custodian incurred pursuant to subsection (A). Either party may demand that the trial be given priority over other cases.

 (C)(1) If the court makes a final determination of the charges or claims against the defendant in his favor, then the defendant may recover custody of his animal.

 (2) If the defendant is found guilty, then the custodian of the animal may then determine if the animal is suitable for adoption or rescue and if adoption or rescue can be arranged for the animal. The animal may not be adopted by the defendant or by any person residing in the defendant's household if the defendant was found guilty. If no adoption or rescue can be arranged after the forfeiture or if the animal is unsuitable for adoption or rescue, then the custodian shall humanely euthanize the animal.

 (D) Within thirty days of an animal's impoundment, the animal's custodian must provide a good faith estimate, pursuant to subsection (A), of the daily custodial cost of the impounded animal. Upon receipt of the good faith estimate, the court shall then issue a notice to the defendant about his impounded animal that includes:

 (1) an estimate of the daily custodial costs required to care for the animal;

 (2) a statement that the defendant, if found guilty, shall be required to pay for the animal's care during impoundment; and

 (3) a statement that the defendant, atAt any time prior to final adjudication, the owner has the right to forfeit ownership of the animal and avoid all future custodial costs related to the animal's care but not costs already accrued, beginning with the date of the seizure.

 (B)(1) Every petition filed pursuant to subsection (A) shall contain a description of the time, place, and circumstances of the seizure, the legal authority for the seizure, and the name and address of the owner of the animal or animals seized.

 (2) Any sheriff, deputy sheriff, deputy state constable, constable, or other law enforcement 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 thirty days of the filing of the petition, the officers 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 seized.

 (C)(1) Upon the court’s receipt of return 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 business days and no more than fifteen business days after the court’s receipt of return of service of process of the petition on the owner. Any sheriff, deputy sheriff, deputy state constable, constable, or other law enforcement officer is 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 seized.

 (2) The scope of the hearing is limited to whether the seizure 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 seizure and care, as determined by the court, for a period beginning as of the date of seizure and ending thirty days after the date of the order. Neither the result of a hearing provided for under this section nor a statement of an owner made at any such hearing shall be admissible in any criminal prosecution related to the seizure 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 thirty days after the date of the initial order and every thirty days thereafter until the owner relinquishes the animal or animals or until the final disposition of the animal or animals. If the required funds are not deposited within five days of the original order setting the amount of funds, or within five days after the expiration of each applicable subsequent thirty-day period, then the animal or animals shall be forfeited to the petitioning agency by operation of law and may be disposed of via transfer to another person or entity capable of providing care or other humane disposition.

 (4) The court may correct, alter, or otherwise adjust the owner’s thirty-day obligation of payment upon a motion made by the owner or the petitioning agency at least five days before the expiration date of the then current thirty-day payment period. The hearing shall be held within ten days of service of the motion on the opposing party, and any adjustment to the thirty-day payment amount shall become effective five days after the court orders, or refuses to order, an adjustment.

 (D)(1) Upon the deposit of funds with the court in accordance with this section, the entity incurring the costs of care may immediately begin to draw from those funds for payment of the actual costs incurred in keeping and caring for the animal or animals from the date of seizure to the date of the final disposition of the underlying criminal action regarding the owner and the animal or animals.

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

 (3) In the event that an owner is adjudicated not guilty of all charges, the owner shall receive from the agency that filed the petition a refund of all costs paid by the owner pursuant to the petition.

 (E) The remedy provided for in this section is in addition to any other remedy provided by law.

SECTION 3. Section 47‑1‑170 of the S.C. Code is amended to read:

 Section 47‑1‑170. The owner or person having charge or custody of an animal cruelly used who is convicted of any violation of this chapter forfeits ownership, charge, or custody of the animal and at the discretion of the court, the person who is charged with or convicted of a violation of this chapter must may be ordered, if not previously ordered, to pay costs incurred to care for the animal and related expenses.

SECTION 4. This act takes effect upon approval by the Governor.

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