

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1085

Short Title: Care of Dogs Illegally Used for Fighting. (Public)

Sponsors: Representatives Insko, Parmon (Primary Sponsors); Adams, Alexander, Glazier, Haire, Luebke, and Weiss.

Referred to: Judiciary I.

April 4, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE A DEFENDANT ARRESTED FOR USING DOGS FOR
3 FIGHTING TO POST A DEPOSIT TO THE ANIMAL SHELTER TO PAY FOR
4 THE DOG'S KEEP DURING THE PERIOD PRIOR TO ADJUDICATION OF
5 THE CHARGES.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Chapter 19A of the General Statutes is amended by adding a
8 new Article to read:

"Article 6.

"Care of Dogs Illegally Used for Fighting.

11 **"§ 19A-70. Care of dogs illegally used for fighting.**

12 (a) In every arrest under G.S. 14-362.2, the animal shelter having custody of
13 dogs illegally used for fighting may file a petition with the court requesting that the
14 defendant be ordered to post security in an amount sufficient to secure payment of all
15 the reasonable expenses expected to be incurred by the animal shelter in caring for and
16 providing for the dogs pending the disposition of the charges. For purposes of this
17 section, "reasonable expenses" include medical care and boarding of the dogs for at
18 least 30 days.

19 The amount of the security shall be determined by the court after taking into
20 consideration all of the facts and circumstances of the case, including the
21 recommendation of the impounding animal shelter and the estimated cost of caring for
22 the dogs. If security has been posted in accordance with this section, the animal shelter
23 may draw from the security the actual costs incurred in caring for the dogs.

24 (b) Upon receipt of a petition, the court shall set a hearing on the petition, to be
25 conducted within five business days after the petition is filed.

26 (c) If the court orders the posting of security, the security shall be posted with the
27 clerk of superior court within five business days after that hearing. Except as provided
28 in subsection (d) of this section, if the defendant fails to post the security within that

1 time, the dogs are forfeited by operation of law, and the impounding animal shelter shall
2 dispose of the dogs through adoption or, if no adoption can be arranged, the shelter shall
3 humanely euthanize the dogs. The dogs may not be adopted by the defendant or by any
4 person residing in the defendant's household.

5 (d) If a defendant is ordered to post security under subsection (c) of this section,
6 the defendant may, within five business days, request a hearing to demonstrate an
7 inability to pay the full amount of the security. At such a hearing, the court may (i)
8 confirm the previous order; (ii) fix the security at a different amount based upon the
9 evidence presented; or (iii) issue an order under subsection (g) of this section to allow
10 the defendant to provide for the dogs without their removal to a shelter.

11 (e) The impounding animal shelter may file a petition with the court upon the
12 expiration of the 30-day period requesting the posting of additional security. The court
13 may order the defendant to post additional security with the clerk of superior court to
14 secure payment of reasonable expenses for an additional period of time pending a
15 determination of the charges against the defendant.

16 (f) The posting of security shall not prevent the impounding organization from
17 disposing of the dogs prior to the expiration of the 30-day period covered by the
18 security if the court makes a final determination of the charges against the defendant.
19 Upon the adjudication of the charges, the defendant is entitled to a refund for any
20 portion of the security not incurred as expenses by the impounding animal shelter.

21 (g) Notwithstanding any other provision of this section, the court may order a
22 defendant to provide necessary food, water, shelter, and care, including any necessary
23 medical care, for any dogs that are the basis of the charges against the defendant without
24 the removal of the dogs from the existing location and until the charges against the
25 defendant are adjudicated. If the court issues such an order, the court shall provide for
26 an animal control officer or other law enforcement officer to make regular visits to the
27 location to ensure that the dogs are receiving necessary food, water, shelter, and care,
28 including any necessary medical care, and to impound the animals if they are not
29 receiving those necessities."

30 **SECTION 2.** This act is effective when it becomes law and applies to arrests
31 occurring on or after that date.