~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 21, 2014

**H. 3361**

Introduced by Reps. Cobb‑Hunter, Long, Weeks and R.L. Brown

S. Printed 5/21/14--S.

Read the first time March 27, 2014.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3361) to amend Section 20‑4‑60, as amended, Code of Laws of South Carolina, 1976, relating to an order for protection from domestic abuse, 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, page 2, line 1, by striking SECTION 3, and inserting:

/ SECTION 3. Section 47‑1‑40 of the 1976 Code is amended to read:

“Section 47‑1‑40. (A) ~~Whoever~~ A person who knowingly or intentionally overloads, overdrives, overworks, or ill‑treats ~~any~~ an animal, deprives ~~any~~ an animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon ~~any~~ an animal, or by omission or commission knowingly or intentionally causes these ~~things~~ acts to be done, ~~for every offense~~ is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not exceeding ~~sixty~~ ninety days or by a fine of not less than one hundred dollars nor more than ~~five hundred~~ one thousand dollars, or both, for a first offense; ~~by imprisonment not exceeding ninety days or by a fine not exceeding eight hundred dollars, or both, for a second offense;~~ or by imprisonment not exceeding two years or by a fine not exceeding two thousand dollars, or both, for a ~~third~~ second or subsequent offense. ~~Notwithstanding any other provision of law, a first offense under this subsection shall be tried in magistrate’s or municipal court.~~

(B) ~~Whoever~~ A person who tortures, torments, needlessly mutilates, cruelly kills, or inflicts excessive or repeated unnecessary pain or suffering upon ~~any~~ an animal or by omission or commission causes ~~the~~ these acts to be done, ~~for any of the offenses~~ is guilty of a felony and, upon conviction, must be punished by imprisonment of not less than one hundred eighty days and not to exceed five years and by a fine of five thousand dollars.

(C) This section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices, wildlife management practices, or activity authorized by Title 50, including an activity authorized by the South Carolina Department of Natural Resources or an exercise designed for training dogs for hunting, if repeated contact with a dog or dogs and another animal does not occur during this training exercise.”

SECTION 4. Section 47‑1‑130 of the 1976 Code is amended to read:

“Section 47‑1‑130. (A) Any person violating the laws in relation to cruelty to animals may be arrested by a law enforcement officer and held, without warrant, in the same manner as in the case of persons found breaking the peace.

(B) The South Carolina Society for the Prevention of Cruelty to Animals, or other organizations organized for the same purpose, may not make an arrest for a violation of the laws in relation to cruelty to animals.”

SECTION 5. Section 47‑1‑140 of the 1976 Code is amended to read:

“Section 47‑1‑140. The ~~person~~ 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 ~~person~~ law enforcement officer making ~~such~~ the arrest shall have a lien on the animals for the expense of such care and provision. ~~But if such person making the arrest be an agent of the South Carolina Society for the Prevention of Cruelty to Animals, or other society incorporated for that purpose, the provisions of Section 47‑1‑120 shall apply in lieu of the provisions of this section.~~ Notwithstanding any other provision of law, an animal may be seized preceding an arrest and pursuant to Section 47‑1‑150.”

SECTION 6. Section 47‑1‑150(B) of the 1976 Code is amended to read:

“(B) The purpose of this section is to provide a means by which a neglected or mistreated animal can be:

(1) removed from its present custody~~,~~; or

(2) made the subject of an order to provide care, issued to its owner by the magistrate or municipal judge, any law enforcement officer, or any agent of the county ~~or of the South Carolina Society for the Prevention of Cruelty to Animals, or any society incorporated for that purpose~~ and given protection and an appropriate and humane disposition made.”

SECTION 7. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 8. Section 47-1-160 of the 1976 Code is repealed.

SECTION 9. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

C. BRADLEY HUTTO for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Judicial Department

The department reports that this bill will have no fiscal impact on the General Fund of the State, nor on federal and/or other funds.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 20‑4‑60, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO AN ORDER FOR PROTECTION FROM DOMESTIC ABUSE, SO AS TO PROVIDE THAT THE COURT MAY PROHIBIT HARM OR HARASSMENT TO A PET ANIMAL OWNED, POSSESSED, KEPT, OR HELD BY THE PETITIONER AND TO PROVIDE THAT IN ORDERING TEMPORARY POSSESSION OF PERSONAL PROPERTY, THE COURT MAY ORDER THE TEMPORARY POSSESSION OF PET ANIMALS.

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

SECTION 1. Section 20‑4‑60(C) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( ) prohibit harm or harassment, including a violation of Chapter 1, Title 47, against any pet animal owned, possessed, kept, or held by:

(a) the petitioner;

(b) any family or household member designated in the order;

(c) the respondent if the petitioner has a demonstrated interest in the pet animal.”

SECTION 2. Section 20‑4‑60(C)(5) of the 1976 Code is amended to read:

“(5) provide for temporary possession of the personal property, including pet animals, of the parties and order assistance from law enforcement officers in removing personal property of the petitioner if the respondent’s eviction has not been ordered.”

SECTION 3. This act takes effect upon approval by the Governor.

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