**South Carolina General Assembly**

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**H. 3668**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. McCoy

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Introduced in the House on February 7, 2017

Currently residing in the House Committee on **Judiciary**

Summary: Provisions for Cost of Animal Care Act of 201

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/7/2017 House Introduced and read first time ([House Journal‑page 8](file:///h:\hj\20170207.docx))

2/7/2017 House Referred to Committee on **Judiciary** ([House Journal‑page 8](file:///h:\hj\20170207.docx))

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**VERSIONS OF THIS BILL**

[2/7/2017](file:///p:\pprever\2017-18\3668_20170207.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 47‑1‑145 SO AS TO ENACT THE “PROVISIONS FOR COST OF ANIMAL CARE ACT”, TO PROVIDE THAT THE CUSTODIAN OF AN ANIMAL TAKEN INTO CUSTODY DUE TO CIVIL OR CRIMINAL VIOLATIONS BY ITS OWNER MAY PETITION THE COURT FOR EXPENSES RELATED TO PROVIDING CARE TO THE ANIMAL, TO ESTABLISH PROCEDURES FOR HEARING SUCH PETITIONS, TO PROVIDE THAT THE COURT SHALL SET A RENEWABLE BOND FOR THE FUNDS NECESSARY TO PROVIDE THE CARE FOR AN ANIMAL TAKEN INTO CUSTODY FOR THIRTY DAYS AND CRITERIA THE COURT SHOULD TAKE INTO CONSIDERATION, TO PROVIDE THAT AN ORDER FOR FUNDS SHALL AUTOMATICALLY RENEW IF THE CUSTODIAN FILES AN AFFIDAVIT WITH THE COURT STATING THAT THE CASE AGAINST THE DEFENDANT HAS NOT BEEN RESOLVED, TO PROVIDE THAT THE COURT MAY ORDER THE DEFENDANT TO DEPOSIT THE FUNDS WITH THE COURT AND TO PROVIDE THAT IF THE FUNDS ARE NOT DEPOSITED WITHIN FIVE BUSINESS DAYS, THE ANIMAL IS FORFEITED TO THE CUSTODIAN, TO ESTABLISH THAT A DEFENDANT MAY RECOVER CUSTODY OF THE ANIMAL IF THE COURT MAKES A FINAL DETERMINATION IN HIS FAVOR AND SATISFIES ALL OUTSTANDING OBLIGATIONS CONCERNING COURT‑ORDERED DEPOSITS FOR THE CARE OF THE ANIMAL, TO PROVIDE THAT A PERSON WHO FAILS TO PAY SUCH FUNDS FORFEITS RIGHTS OF OWNERSHIP TO THE ANIMAL, TO PROVIDE FOR THE DISPOSITION OF SUCH AN ANIMAL, TO PROVIDE THAT THE CUSTODIAN MAY SEEK PLACEMENT OF THE ANIMAL BEFORE THE EXPIRATION OF THE THIRTY‑DAY PERIOD IF THE COURT MAKES A FINAL DETERMINATION OF THE CHARGES AGAINST THE DEFENDANT, AND TO PROVIDE FOR THE RETURN OF FUNDS TO THE DEFENDANT IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 47‑1‑130, RELATING TO CRUELTY TO ANIMALS, SO AS TO PROVIDE THAT AGENTS OF THE SOUTH CAROLINA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, OR ANY OTHER SOCIETY DULY INCORPORATED FOR THAT PURPOSE, MAY ASSIST WITH A LAWFUL INVESTIGATION PURSUANT TO THE PROVISIONS OF THIS CHAPTER; AND TO AMEND SECTION 47‑1‑140, RELATING TO NOTICE PROVIDED TO THE OWNER OF ANIMALS WHICH HAVE BEEN SEIZED FROM OTHERS UPON ARREST, TO REMOVE PROVISIONS REGARDING LIENS HELD BY LAW ENFORCEMENT OFFICERS FOR ANIMAL CARE EXPENSES.

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

SECTION 1. This act may be cited as the “Provisions for Cost of Animal Care Act”.

SECTION 2. Chapter 1, Title 47 of the 1976 Code is amended by adding:

“Section 47‑1‑145. (A) Notwithstanding any other provision of law, any person, organization, or other entity that has custody of an animal seized under the provisions of Section 47‑1‑150 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 court requesting that the owner be ordered to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the custodian in caring for and providing for the animal pending the disposition of the litigation related to the removal of the animal. For purposes of this section, ‘reasonable expenses’ includes the cost of providing food, water, shelter, and care, including medical care, for at least thirty days, but does not include extraordinary medical procedures.

(B) Upon receipt of a petition, the court shall set a hearing on the petition to determine the need to care for and provide for the animal pending the disposition of the litigation related to the removal of the animal. The hearing shall be conducted no fewer than ten and no more than fifteen business days after the petition is filed. The custodian of the animal shall mail written notice of the hearing and a copy of the petition to the owner at the address where the animal was seized, or contained in the criminal charges, if filed, or the complaint or summons by which a civil action was initiated. If the defendant is in a local detention facility at the time the petition is filed, the custodian of the animal also shall provide notice to the custodian of the detention facility.

(C) At the hearing held pursuant to subsection (B), if the court finds by a preponderance of the evidence that the animal was subjected to a violation of Chapter 1, Title 47 or Chapter 27, Title 16, the court shall set a renewable bond for the amount of funds necessary for thirty days’ care after taking into consideration all of the facts and circumstances of the case, including the need to care for and provide for the animal pending the disposition of the litigation, the recommendation of the custodian of the animal, and the estimated cost of caring for and providing for the animal. Neither the result of a hearing pursuant to subsection (B) nor a statement of an owner made at such hearing shall be admissible against a defendant in criminal proceedings related to seizure of the animal. Nothing in this section shall prevent an owner from surrendering a seized animal for humane disposition consistent with this chapter. For purposes of this section, ‘owner’ shall include a person who owns, harbors, or has custody of or control of an animal.

(D)(1) Any order for funds to be deposited pursuant to this section must state that if the custodian of the animal files an affidavit with the court at least two business days before the expiration of a thirty‑day period stating that, to the best of the custodian’s knowledge, the case against the defendant has not yet been resolved, the order must be automatically renewed every thirty days until the case is resolved.

(2) The court shall order that the defendant deposit with the court the amount of funds set by the court pursuant to subsection (C). The defendant also shall deposit the same amount with the court every thirty days thereafter until the litigation is resolved, unless the defendant requests a hearing no fewer than five business days before the expiration of a thirty‑day period. If funds have been deposited in accordance with this subsection, the custodian of the animal may draw from the funds the actual costs incurred in caring or providing for the animal. If the funds have not been deposited within five business days of the order setting the amount of funds, or five business days after the expiration of a thirty‑day period, then the animal is forfeited to the custodian by operation of law.

(E)(1)(a) 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 if, within thirty days of the final determination, he satisfies all outstanding obligations concerning court‑ordered deposits for the care of the animal.

(b) If the defendant fails to satisfy all outstanding obligations concerning court ordered deposits for the care of the animal within thirty days of a final determination, the defendant forfeits all rights of ownership or possession of the animal.

The custodian of the animal may then determine whether the animal is suitable for adoption and whether 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 no adoption can be arranged after the forfeiture, or the animal is unsuitable for adoption, the custodian shall humanely euthanize the animal.

(c) A person who is acquitted of all criminal charges or not found to have committed animal cruelty in a civil action under Chapter 1, Title 47 is entitled to a refund of the deposit remaining after any draws from the deposit in accordance with subsection (D).

(2)(a) If the defendant is convicted of criminal charges or found to have committed animal cruelty in a civil action, the defendant forfeits all rights of ownership or possession of the animal.

(b) The deposit of funds does not prevent the custodian of the animal from seeking placement of the animal before the expiration of the thirty‑day period covered by the deposit if the defendant is convicted of criminal charges or found to have committed animal cruelty in a civil action. Upon such determination, the defendant is entitled to a refund for any portion of the deposit not incurred as expenses by the custodian of the animal.

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

SECTION 3. 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 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.

(C) A person acting as an agent of the South Carolina Society for the Prevention of Cruelty to Animals, or any society duly incorporated for that purpose, may assist with a lawful investigation of alleged violations of this chapter, accompany law enforcement officers making arrests for a violation of this chapter, participate with law enforcement officers in the seizure of animals pursuant to a lawful arrest, and take custody of animals pursuant to Section 47‑1‑120.”

SECTION 4. Section 47‑1‑140 of the 1976 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 5. This act takes effect upon approval by the Governor.

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