

The Senate Judiciary Committee offered the following substitute to SB 290:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 8 of Title 4, Chapter 14 of Title 4, and Article 2 of Chapter
2 9 of Title 15 of the Official Code of Georgia Annotated, relating to responsible dog
3 ownership, sterilization of dogs and cats in animal shelters, and jurisdiction, power, and
4 duties of probate courts, respectively, so to provide more opportunity to expeditiously handle
5 dogs in the community that are alleged to be dangerous, vicious, or are otherwise in animal
6 shelters; to clarify provisions relating to dog control officers; to provide probate courts the
7 authority to hear contested dog classification and confiscation cases and appeals of such
8 cases under certain circumstances; to shorten time frames for actions involving confiscation
9 and classifications of dogs; to change provisions relating to payment of cost of recovery and
10 euthanasia; to provide for and change definitions; to provide for an effective date and
11 applicability; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

13 Article 2 of Chapter 8 of Title 4 of the Official Code of Georgia Annotated, relating to
14 responsible dog ownership, is amended by revising subsection (b) of Code Section 4-8-22,
15 relating to designation of the dog control officer, as follows:
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17 "(b) The governing authority of each local government shall designate ~~an individual~~
18 individuals as dog control ~~officer~~ officers to aid in the administration and enforcement of
19 the provisions of this article. An individual ~~A person~~ carrying out the duties of dog control
20 officer shall not be authorized to make arrests unless ~~the person~~ he or she is a law
21 enforcement officer having the powers of arrest."

SECTION 2.

22 Said article is further amended by revising Code Section 4-8-23, relating to investigations,
23 notice, hearings, and determinations of dog control cases, as follows:
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25 "4-8-23.

26 (a) For purposes of this Code section, the term:

27 (1) 'Animal shelter' shall have the same meaning as set forth in Code Section 4-14-2.

28 ~~(1)(2)~~ 'Authority' means an animal control board or local board of health, as determined
 29 by the governing authority of a local government.

30 ~~(2)(3)~~ 'Mail' means to send by certified mail or statutory overnight delivery to the
 31 recipient's last known address.

32 (b) Upon receiving a report of a dog believed to be subject to classification as a dangerous
 33 dog or vicious dog within a dog control officer's jurisdiction, the dog control officer shall
 34 make such investigations as necessary to determine whether such dog is subject to
 35 classification as a dangerous dog or vicious dog.

36 (c) When a dog control officer determines that a dog is subject to classification as a
 37 dangerous dog or vicious dog, the dog control officer shall mail a dated notice to the dog's
 38 owner within 72 hours. Such notice shall include a summary of the dog control officer's
 39 determination and shall state that the owner has a right to request a hearing from the
 40 authority on the dog control officer's determination within ~~15~~ seven days after the date
 41 shown on the notice; provided, however, that if an authority has not been established for
 42 the jurisdiction, the owner shall be informed of the right to request a hearing from the
 43 probate court for such jurisdiction where the dog was found or confiscated within seven
 44 days after the date shown on the notice. The notice shall ~~also~~ provide a form for requesting
 45 the hearing and shall state that if a hearing is not requested within the allotted time, the dog
 46 control officer's determination shall become effective for all purposes under this article.
 47 If an owner cannot be located within ten days of a dog control officer's determination that
 48 a dog is subject to classification as a dangerous dog or vicious dog, such dog may be
 49 released to an animal shelter or humanely euthanized, as determined by the dog control
 50 officer.

51 (d) When a hearing is requested by a dog owner in accordance with subsection (c) of this
 52 Code section, such hearing shall be scheduled within 30 days after the request is received;
 53 provided, however, that such hearing may be continued by the authority or probate court
 54 for good cause shown. At least ten days prior to the hearing, the authority or probate court
 55 conducting the hearing shall mail to the dog owner written notice of the date, time, and
 56 place of the hearing. At the hearing, the dog owner shall be given the opportunity to testify
 57 and present evidence and the authority or probate court conducting the hearing shall receive
 58 other evidence and testimony as may be reasonably necessary to sustain, modify, or
 59 overrule the dog control officer's determination.

60 (e) Within ten days after the hearing, the authority or probate court which conducted the
 61 hearing shall mail written notice to the dog owner of its determination on the matter. If

62 such determination is that the dog is a dangerous dog or a vicious dog, the notice of
 63 classification shall specify the date upon which that determination shall be effective. If the
 64 determination is that the dog is to be euthanized pursuant to Code Section 4-8-26, the
 65 notice shall specify the date by which the euthanasia shall occur.

66 (f) Judicial review of the authority's final decision may be had in accordance with Code
 67 Section ~~50-13-19~~ 15-9-30.9. Judicial review of a probate court's final decision shall be in
 68 accordance with Code Section 5-3-2 and costs shall be paid as provided in Code Section
 69 5-3-22."

70 SECTION 3.

71 Said article is further amended by revising Code Section 4-8-30, relating to payment of costs
 72 for recovery, as follows:

73 "4-8-30.

74 (a) A dangerous dog or vicious dog shall be immediately confiscated by any dog control
 75 officer or by a law enforcement officer in the case of any violation of this article. A refusal
 76 to surrender a dog subject to confiscation shall be a violation of this article.

77 (b) The owner of any dog that has been confiscated pursuant to this article may recover
 78 such dog upon payment of all reasonable confiscation and housing costs and proof of
 79 compliance with the provisions of this article, unless such confiscation is deemed to be in
 80 error by a dog control officer, an authority, as defined in Code Section 4-8-23, or a probate
 81 court. All fines and all charges for services performed by a law enforcement or dog control
 82 officer shall be paid prior to owner recovery of the dog. Criminal prosecution shall not be
 83 stayed due to owner recovery or euthanasia of the dog.

84 (c) In the event the owner has not complied with the provisions of this article within ~~20~~ 12
 85 days of the date the dog was confiscated, such dog shall be ~~destroyed~~ released to an animal
 86 shelter, as such term is defined in Code Section 4-14-2, or euthanized in an expeditious and
 87 humane manner and the. The owner may be required to pay the costs of housing and cost
 88 of euthanasia."

89 SECTION 4.

90 Chapter 14 of Title 4 of the Official Code of Georgia Annotated, relating to sterilizations of
 91 dogs and cats in animal shelters, is amended by revising paragraph (5) of Code Section
 92 4-14-2, relating to definitions, as follows:

93 "(5) 'Sterilization' means rendering a dog or cat unable to reproduce by the surgical
 94 removal of the its reproductive organs of a dog or cat in order to render the animal unable
 95 to reproduce or by nonsurgical methods or technologies."

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SECTION 5.

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Article 2 of Chapter 9 of Title 15 of the Official Code of Georgia Annotated, relating to jurisdiction, power, and duties of probate courts, is amended by adding a new Code section to read as follows:

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"15-9-30.9.

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(a) In addition to any other jurisdiction vested in the probate courts, such courts shall have the right and power to hear cases of violations of Article 2 of Chapter 8 of Title 4 and to impose:

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(1) Civil penalties for such violations, other than euthanasia; and

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(2) Criminal penalties for such violations as provided by Code Section 4-8-32.

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(b) An appeal from a decision by an animal control board or local board of health pursuant to subsection (f) of Code Section 4-8-23 shall lie in probate court. No appeal shall be heard in probate court until costs which have accrued in the tribunal below have been paid, unless the appellant files with the probate court or with the tribunal appealed from an affidavit stating that because of indigence he or she is unable to pay the costs on appeal. In all cases, no appeal shall be dismissed in the probate court because of nonpayment of the costs below until the appellant has been directed by the court to do so and has failed to comply with the court's direction.

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(c) Filing of the notice of appeal and payment of costs or filing of an affidavit as provided in subsection (b) of this Code section shall act as supersedeas, and it shall not be necessary that a supersedeas bond be filed; provided, however, that the probate court upon motion may at any time require that supersedeas bond with good security be given in such amount as the court may deem necessary unless the appellant files with the court an affidavit stating that because of indigence he or she is unable to give bond."

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SECTION 6.

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This Act shall become effective on July 1, 2014, and shall apply to all violations and confiscations which occur on or after that date.

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SECTION 7.

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