

## **Chapter 19A.**

### **Protection of Animals.**

#### Article 1.

#### Civil Remedy for Protection of Animals.

##### **§ 19A-1. Definitions.**

The following definitions apply in this Article:

- (1) The term "animals" includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings.
- (2) The terms "cruelty" and "cruel treatment" include every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted.
- (3) The term "person" has the same meaning as in G.S. 12-3. (1969, c. 831; 1979, c. 808, s. 2; 1995, c. 509, s. 19; 2003-208, s. 1.)

##### **§ 19A-1.1. Exemptions.**

This Article shall not apply to the following:

- (1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this Article applies to those birds other than pigeons exempted by the Wildlife Resources Commission from its definition of "wild birds" pursuant to G.S. 113-129(15a).
- (2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.
- (3) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.
- (4) Activities conducted for lawful veterinary purposes.
- (5) The lawful destruction of any animal for the purposes of protecting the public, other animals, or the public health.
- (6) Lawful activities for sport.
- (7) The taking and holding in captivity of a wild animal by a licensed sportsman for use or display in an annual, seasonal, or cultural event, so long as the animal is captured from the wild and returned to the wild at or near the area where it was captured. (2003-208, s. 1; 2013-3, s. 3; 2015-286, s. 4.32(b).)

##### **§ 19A-2. Purpose.**

It shall be the purpose of this Article to provide a civil remedy for the protection and humane treatment of animals in addition to any criminal remedies that are available and it shall be proper in any action to combine causes of action against one or more defendants for the protection of one or more animals. A real party in interest as plaintiff shall be held to include any person even though the person does not have a possessory or ownership right in an animal; a real party in interest as defendant shall include any person who owns or has possession of an animal. Venue for any action filed under this Article shall only be in the county where any violation is alleged to have occurred. (1969, c. 831; 1995, c. 509, s. 20; 2003-208, s. 1; 2013-3, s. 4; 2013-410, s. 4.1.)

##### **§ 19A-3. Preliminary injunction; care of animal pending hearing on the merits.**

(a) Upon the filing of a verified complaint in the district court in the county in which cruelty to an animal has allegedly occurred, the judge may, as a matter of discretion, issue a preliminary injunction in accordance with the procedures set forth in G.S. 1A-1, Rule 65. Every such preliminary injunction, if the plaintiff so requests, may give the plaintiff the right to provide suitable care for the animal. If it appears on the face of the complaint that the condition giving rise to the cruel treatment of an animal requires the animal to be removed from its owner or other person who possesses it, then it shall be proper for the court in the preliminary injunction to allow the plaintiff to take possession of the animal as custodian.

(b) The plaintiff as custodian may employ a veterinarian to provide necessary medical care for the animal without any additional court order. Prior to taking such action, the plaintiff as custodian shall consult with, or attempt to consult with, the defendant in the action, but the plaintiff as custodian may authorize such care without the defendant's consent. Notwithstanding the provisions of this subsection, the plaintiff as custodian may not have an animal euthanized without written consent of the defendant or a court order that authorizes euthanasia upon the court's finding that the animal is suffering due to terminal illness or terminal injury.

(c) The plaintiff as custodian may place an animal with a foster care provider. The foster care provider shall return the animal to the plaintiff as custodian on demand. (1969, c. 831; 1971, c. 528, s. 10; 1979, c. 808, s. 3; 2003-208, s. 1; 2006-113, s. 1.1.)

#### **§ 19A-4. Permanent injunction.**

(a) In accordance with G.S. 1A-1, Rule 65, a district court judge in the county in which the original action was brought shall determine the merits of the action by trial without a jury, and upon hearing such evidence as may be presented, shall enter orders as the court deems appropriate, including a permanent injunction and dismissal of the action along with dissolution of any preliminary injunction that had been issued.

(b) If the plaintiff prevails, the court in its discretion may include the costs of food, water, shelter, and care, including medical care, provided to the animal, less any amounts deposited by the defendant under G.S. 19A-70, as part of the costs allowed to the plaintiff under G.S. 6-18. In addition, if the court finds by a preponderance of the evidence that even if a permanent injunction were issued there would exist a substantial risk that the animal would be subjected to further cruelty if returned to the possession of the defendant, the court may terminate the defendant's ownership and right of possession of the animal and transfer ownership and right of possession to the plaintiff or other appropriate successor owner. For good cause shown, the court may also enjoin the defendant from acquiring new animals for a specified period of time or limit the number of animals the defendant may own or possess during a specified period of time.

(c) If the final judgment entitles the defendant to regain possession of the animal, the custodian shall return the animal, including taking any necessary steps to retrieve the animal from a foster care provider.

(d) The court shall consider and may provide for custody and care of the animal until the time to appeal expires or all appeals have been exhausted. (1969, c. 831; 1971, c. 528, s. 10; 1979, c. 808, s. 4; 2003-208, s. 1; 2006-113, s. 1.2.)

#### **§§ 19A-5 through 19A-9. Reserved for future codification purposes.**