

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA



## Animal Protection Laws of North Carolina

### SUBSTANTIVE PROHIBITIONS

1. DEFINITION OF “ANIMAL”
2. GENERAL CRUELTY
3. EXEMPTIONS
4. FIGHTING & RACKETEERING
5. SEXUAL ASSAULT
6. CRUELTY TO WORKING ANIMALS

### PROCEDURAL MATTERS

7. MAXIMUM PENALTIES & STATUTE OF LIMITATIONS
8. CROSS ENFORCEMENT & REPORTING
9. VETERINARIAN REPORTING & IMMUNITY
10. LAW ENFORCEMENT POLICIES
11. SEIZURE
12. COURTROOM ANIMAL ADVOCATE PROGRAM
13. PROTECTION ORDERS
14. RESTITUTION
15. FORFEITURE & POSSESSION BANS
16. COURT-ORDERED TREATMENT

### MISCELLANEOUS PROVISIONS

17. HOT CARS
18. CIVIL NUISANCE ABATEMENT
19. AG-GAG LAWS
20. BREED SPECIFIC LEGISLATION

*This chapter contains North Carolina’s general animal protection and related statutes with an effective date on or before September 1, 2020. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories with the relevant part of each statute italicized.*

*North Carolina may employ similar provisions within other non-animal-specific criminal and civil statutes; may have other more specific statutes in addition to those included; and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.*

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

## NORTH CAROLINA

1. <u>DEFINITION OF "ANIMAL"</u>	<p>[Criminal &amp; civil remedies definition]:          "[A]nimal[s]' includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings"          N.C. GEN. STAT. §§ 14-360(c), 19A-1(1)</p>
2. <u>GENERAL CRUELTY *</u>	<p>Poisoning livestock          N.C. GEN. STAT. § 14-163  <i>Class I felony</i></p> <p>General cruelty to animals          N.C. GEN. STAT. § 14-360(a)  <i>Class 1 misdemeanor</i></p> <p>Intentional deprivation of necessary sustenance          N.C. GEN. STAT. § 14-360(a1)  <i>Class H felony</i></p> <p>Maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill          N.C. GEN. STAT. § 14-360(b)  <i>Class H felony</i></p> <p>Definitions          N.C. GEN. STAT. § 14-360(c)</p> <p>Instigating or promoting cruelty to animals          N.C. GEN. STAT. § 14-361  <i>Class 1 misdemeanor</i></p> <p>Abandonment of animals          N.C. GEN. STAT. § 14-361.1  <i>Class 2 misdemeanor</i></p> <p>Maliciously chaining a dog          N.C. GEN. STAT. § 14-362.3  <i>Class 1 misdemeanor</i></p>

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

	<p>Conveying animals in a cruel manner  <b>N.C. GEN. STAT. § 14-363</b>  <i>Class 1 misdemeanor</i></p> <p>Selling or dying baby chicks or rabbits  <b>N.C. GEN. STAT. § 14-363.1</b>  <i>Class 3 misdemeanor</i></p>
<b>3. <u>EXEMPTIONS</u></b>	<p>Veterinary practice, other  <b>N.C. GEN. STAT. § 14-163.1</b></p> <p>Veterinary practice, research animals, wildlife, accepted farm animal husbandry practices, slaughter, other  <b>N.C. GEN. STAT. §§ 14-360(c), 19A-1.1</b></p>
<b>4. <u>FIGHTING &amp; RACKETEERING</u></b>	<p>Cockfighting  <b>N.C. GEN. STAT. § 14-362</b>  <i>Class I felony</i></p> <p>Various animal fighting activities (other than cockfighting and dogfighting or baiting)  <b>N.C. GEN. STAT. § 14-362.1</b>  <i>1<sup>st</sup> offense: Class 2 misdemeanor</i>  <i>Subsequent offenses within 3 years: class I felony</i></p> <p>Various dogfighting and baiting activities (including spectatorship)  <b>N.C. GEN. STAT. § 14-362.2</b>  <i>Class H felony</i></p>
<b>5. <u>SEXUAL ASSAULT</u></b>	<p>The crime against nature with a beast  <b>N.C. GEN. STAT. § 14-177</b>  <i>Class I felony</i></p>
<b>6. <u>CRUELTY TO WORKING ANIMALS</u></b>	<p>Killing or seriously harming a law enforcement, assistance, or search and rescue animal  <b>N.C. GEN. STAT. § 14-163.1</b>  <i>Kills: Class H felony</i>  <i>Harms: Class I felony</i>  <i>Taunts/harasses etc.: Class 2 misdemeanor</i></p>

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

	<p><b>NOTE:</b> <i>harm to a law enforcement animal or service animal is an aggravating factor for the purpose of sentencing.</i></p> <p>N.C. GEN. STAT. ANN. § 15A-1340.16</p>
<p><b>7. <u>MAXIMUM PENALTIES &amp; STATUTE OF LIMITATIONS**</u></b></p>	<p>Class 2 misdemeanor <i>30 days imprisonment and/or \$1,000 fine</i> N.C. GEN. STAT. § 15A-1340.23</p> <p>Class 1 misdemeanor <i>45 days imprisonment and/or fine at the discretion of the court</i> N.C. GEN. STAT. § 15A-1340.23</p> <p>Class I felony <i>Presumptive sentence: 4-6 months imprisonment and/or fine at the discretion of the court</i> N.C. GEN. STAT. § 15A-1340.17</p> <p>Class H felony <i>Presumptive sentence: 5-6 months imprisonment and/or fine at the discretion of the court</i> N.C. GEN. STAT. § 15A-1340.17</p> <p>Statute of Limitations <i>Felony or malicious misdemeanor: None</i> <i>Other misdemeanors: 2 years</i> N.C. GEN. STAT. § 15-1</p>
<p><b>8. <u>CROSS ENFORCEMENT &amp; REPORTING</u></b></p>	-----
<p><b>9. <u>VETERINARIAN REPORTING &amp; IMMUNITY</u></b></p>	<p>Veterinarians who, in good faith, report suspected animal cruelty, participate in an investigation or testify in an animal cruelty case are immune from civil, criminal and professional liability.</p> <p>N.C. GEN. STAT. § 14-360.1</p>
<p><b>10. <u>LAW ENFORCEMENT POLICIES</u></b></p>	<p>Provision for the appointment of animal cruelty investigators</p> <p>N.C. GEN. STAT. § 19A-45</p>

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

	<p>Animal cruelty investigator may be issued court order to seize cruelly treated animals.  <b>N.C. GEN. STAT. § 19A-46(a)</b></p> <p>Animal cruelty investigator may request a law enforcement officer or animal control officer to assist in seizing cruelly treated animals.  <b>N.C. GEN. STAT. § 19A-46(b)</b></p> <p>Interference with an animal cruelty investigator is a Class 1 misdemeanor.  <b>N.C. GEN. STAT. § 19A-48</b></p> <p>All animal cruelty investigators must receive annual instruction in the investigation of complaints relating to the care and treatment of animals.  <b>N.C. GEN. STAT. § 19A-49</b></p>
<p><b>11. <u>SEIZURE</u></b></p>	<p>Conviction may result in confiscation of cruelly treated animals.  <b>N.C. GEN. STAT. § 14-363.2</b></p> <p>Court may issue preliminary injunction or other order authorizing the seizure of cruelly treated animals.  <b>N.C. GEN. STAT. §§ 19A-3, 19A-46</b></p> <p>Court may authorize on-site supervision to ensure minimum care for animals not impounded.  <b>N.C. GEN. STAT. § 19A-70(f)</b></p>
<p><b>12. <u>COURTROOM ANIMAL ADVOCATE PROGRAM</u></b></p>	<p>-----</p>
<p><b>13. <u>PROTECTION ORDERS†</u></b></p>	<p>If domestic violence has occurred, the court shall grant a protective order which can order a party from refraining from cruelly treating or abusing an animal in the household.  <b>N.C. GEN. STAT. § 50B-3(a)(8)-(9)</b></p>
<p><b>14. <u>RESTITUTION †</u></b></p>	<p>Necessary expenses for costs of care of seized animals shall be a charge to the animal's owner and a lien on the animal.  <b>N.C. GEN. STAT. § 19A-47</b></p>

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

	<p>The court may order a defendant to post a bond to cover the reasonable expenses for care of an impounded animal.  <b>N.C. GEN. STAT. § 19A-70</b></p> <p>After conviction for harm to a service animal or law enforcement animal, the defendant must make restitution for various expenses, including veterinary care and replacement of the animal.  <b>N.C. GEN. STAT. § 14-163.1</b></p>
<p><b>15. <u>FORFEITURE &amp; POSSESSION BANS †</u></b></p>	<p>Court may order confiscation of cruelly treated animals and has final determination of custody.  <b>N.C. GEN. STAT. § 14-363.2</b></p> <p>Court may issue a permanent injunction allowing the forfeiture of cruelly treated animals.  <b>N.C. GEN. STAT. § 19A-4</b></p> <p>If the defendant fails to post or renew a court-ordered bond for costs of care for an impounded animal, the animal is forfeited.  <b>N.C. GEN. STAT. § 19A-70</b></p>
<p><b>16. <u>COURT-ORDERED TREATMENT†</u></b></p>	<p>-----</p>
<p><b>17. <u>HOT CARS</u></b></p>	<p>Any peace officer, animal control, or other similar rescue worker may enter a motor vehicle to prevent injury to an animal.  <b>N.C. GEN. STAT. § 14-363.3</b></p>
<p><b>18. <u>CIVIL NUISANCE ABATEMENT</u></b></p>	<p>Sexual acts with an animal is a civil nuisance.  <b>N.C. GEN. STAT. § 19-1.1</b></p> <p>Actions for abatement.  <b>N.C. GEN. STAT. § 19-2.1</b></p> <p>Animal cruelty is an abatable nuisance; plaintiffs may seek preliminary and permanent injunctions.  <b>N.C. GEN. STAT. §§ 19A-1; 19A-1.1; 19A-2; 19A-3; 19A-4</b></p>

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

<b>19. <u>AG-GAG LAWS</u></b>	Recovery of damages for exceeding the scope of authorized access to property <b>N.C. GEN. STAT. § 99A-2</b>
<b>20. <u>BREED SPECIFIC LEGISLATION</u></b>	-----

- \* States may have other more specific statutes in addition to the general animal protection statutes referenced in this table.
- \*\* Despite statutory maximums, states often employ sentencing guidelines that may significantly alter the allowable sentence.
- † This table generally references only those provisions that are within each state’s animal protection statutes. States may employ similar provisions within other non-animal-specific criminal and civil statutes, and may also have a variety of animal-related regulations in effect.

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### 1. DEFINITION OF “ANIMAL”

#### N.C. GEN. STAT. § 14-360. Cruelty to animals; construction of section.

- (a) If any person shall intentionally overdrive, overload, wound, injure, torment, kill, or deprive of necessary sustenance, or cause or procure to be overdriven, overloaded, wounded, injured, tormented, killed, or deprived of necessary sustenance, any animal, every such offender shall for every such offense be guilty of a Class 1 misdemeanor.
- (a1) If any person shall maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance, that person shall be guilty of a Class H felony.
- (b) If any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal, every such offender shall for every such offense be guilty of a Class H felony. However, nothing in this section shall be construed to increase the penalty for cockfighting provided for in G.S. 14-362.
- (c) As used in this section, the words “torture”, “torment”, and “cruelly” include or refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death. As used in this section, the word “intentionally” refers to an act committed knowingly and without justifiable excuse, while the word “maliciously” means an act committed intentionally and with malice or bad motive. *As used in this section, the term “animal” includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings.* However, this section shall not apply to the following activities:
  - (1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply 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.
  - (2a) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.
  - (3) Activities conducted for lawful veterinary purposes.
  - (4) The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health.
  - (5) The physical alteration of livestock or poultry for the purpose of conforming with breed or show standards.

#### N.C. GEN. STAT. § 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.*



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## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

- (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.

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### 2. GENERAL CRUELTY

#### **N.C. GEN. STAT. § 14-163. Poisoning livestock**

*If any person shall willfully and unlawfully poison any horse, mule, hog, sheep or other livestock, the property of another, such person shall be punished as a Class I felon.*

#### **N.C. GEN. STAT. § 14-360. Cruelty to animals; construction of section.**

- (a) *If any person shall intentionally overdrive, overload, wound, injure, torment, kill, or deprive of necessary sustenance, or cause or procure to be overdriven, overloaded, wounded, injured, tormented, killed, or deprived of necessary sustenance, any animal, every such offender shall for every such offense be guilty of a Class 1 misdemeanor.*
- (a1) *If any person shall maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance, that person shall be guilty of a Class H felony.*
- (b) *If any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal, every such offender shall for every such offense be guilty of a Class H felony. However, nothing in this section shall be construed to increase the penalty for cockfighting provided for in G.S. 14-362.*
- (c) *As used in this section, the words "torture", "torment", and "cruelly" include or refer to any act, omission, or neglect causing or permitting unjustifiable pain, suffering, or death. As used in this section, the word "intentionally" refers to an act committed knowingly and without justifiable excuse, while the word "maliciously" means an act committed intentionally and with malice or bad motive. As used in this section, the term "animal" includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings. However, this section shall not apply to the following activities:*
- (1) The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply 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.
  - (2a) Lawful activities conducted for the primary purpose of providing food for human or animal consumption.
  - (3) Activities conducted for lawful veterinary purposes.
  - (4) The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health.
  - (5) The physical alteration of livestock or poultry for the purpose of conforming with breed or show standards.

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### **N.C. GEN. STAT. § 14-361. Instigating or promoting cruelty to animals.**

*If any person shall willfully set on foot, or instigate, or move to, carry on, or promote, or engage in, or do any act towards the furtherance of any act of cruelty to any animal, he shall be guilty of a Class 1 misdemeanor.*

### **N.C. GEN. STAT. § 14-361.1. Abandonment of animals.**

*Any person being the owner or possessor, or having charge or custody of an animal, who willfully and without justifiable excuse abandons the animal is guilty of a Class 2 misdemeanor.*

### **N.C. GEN. STAT. § 14-362.3. Restraining dogs in a cruel manner.**

*A person who maliciously restrains a dog using a chain or wire grossly in excess of the size necessary to restrain the dog safely is guilty of a Class 1 misdemeanor.* For purposes of this section, “maliciously” means the person imposed the restraint intentionally and with malice or bad motive.

### **N.C. GEN. STAT. § 14-363. Conveying animals in a cruel manner.**

*If any person shall carry or cause to be carried in or upon any vehicle or other conveyance, any animal in a cruel or inhuman manner, he shall be guilty of a Class 1 misdemeanor.* Whenever an offender shall be taken into custody therefor by any officer, the officer may take charge of such vehicle or other conveyance and its contents, and deposit the same in some safe place of custody. The necessary expenses which may be incurred for taking charge of and keeping and sustaining the vehicle or other conveyance shall be a lien thereon, to be paid before the same can be lawfully reclaimed; or the said expenses, or any part thereof remaining unpaid, may be recovered by the person incurring the same of the owner of such animal in an action therefor.

### **N.C. GEN. STAT. § 14-363.1. Living baby chicks or other fowl, or rabbits under eight weeks of age; disposing of as pets or novelties forbidden**

*If any person, firm or corporation shall sell, or offer for sale, barter or give away as premiums living baby chicks, ducklings, or other fowl or rabbits under eight weeks of age as pets or novelties, such person, firm or corporation shall be guilty of a Class 3 misdemeanor.* Provided, that nothing contained in this section shall be construed to prohibit the sale of nondomesticated species of chicks, ducklings, or other fowl, or of other fowl from proper brooder facilities by hatcheries or stores engaged in the business of selling them for purposes other than for pets or novelties.

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### 3. EXEMPTIONS

#### **N.C. GEN. STAT. § 14-163.1. Assaulting a law enforcement agency animal, an assistance animal, or a search and rescue animal.**

(a) The following definitions apply in this section:

- (1) Assistance animal.--An animal that is trained and may be used to assist a “person with a disability” as defined in G.S. 168A-3. The term “assistance animal” is not limited to a dog and includes any animal trained to assist a person with a disability as provided in Article 1 of Chapter 168 of the General Statutes.
  - (2) Law enforcement agency animal.--An animal that is trained and may be used to assist a law enforcement officer in the performance of the officer's official duties.
  - (3) Harm.--Any injury, illness, or other physiological impairment; or any behavioral impairment that impedes or interferes with duties performed by a law enforcement agency animal or an assistance animal.
  - (3a) Search and rescue animal.--An animal that is trained and may be used to assist in a search and rescue operation.
  - (4) Serious harm.--Harm that does any of the following:
    - a. Creates a substantial risk of death.
    - b. Causes maiming or causes substantial loss or impairment of bodily function.
    - c. Causes acute pain of a duration that results in substantial suffering.
    - d. Requires retraining of the law enforcement agency animal or assistance animal.
    - e. Requires retirement of the law enforcement agency animal or assistance animal from performing duties.
- (a1) Any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully kills the animal is guilty of a Class H felony.
  - (b) Any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully causes or attempts to cause serious harm to the animal is guilty of a Class I felony.
  - (c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully causes or attempts to cause harm to the animal is guilty of a Class 1 misdemeanor.
  - (d) Unless the conduct is covered under some other provision of law providing greater punishment, any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully taunts, teases, harasses, delays, obstructs, or attempts to delay or obstruct the animal in the performance of its duty as a law enforcement agency animal, an assistance animal, or a search and rescue animal is guilty of a Class 2 misdemeanor.

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

- (d1) A defendant convicted of a violation of this section shall be ordered to make restitution to the person with a disability, or to a person, group, or law enforcement agency who owns or is responsible for the care of the law enforcement agency animal or search and rescue animal for any of the following as appropriate:
- (1) Veterinary, medical care, and boarding expenses for the law enforcement agency animal, the assistance animal, or the search and rescue animal.
  - (2) Medical expenses for the person with the disability relating to the harm inflicted upon the assistance animal.
  - (3) Replacement and training or retraining expenses for the law enforcement agency animal, the assistance animal, or the search and rescue animal.
  - (4) Expenses incurred to provide temporary mobility services to the person with a disability.
  - (5) Wages or income lost while the person with a disability is with the assistance animal receiving training or retraining.
  - (6) The salary of the law enforcement agency animal handler as a result of the lost services to the agency during the time the handler is with the law enforcement agency animal receiving training or retraining.
  - (6a) The salary of the search and rescue animal handler as a result of the search and rescue services lost during the time the handler is with the search and rescue animal receiving training or retraining.
  - (7) Any other expense reasonably incurred as a result of the offense.
- (e) *This section shall not apply to a licensed veterinarian whose conduct is in accordance with Article 11 of Chapter 90 of the General Statutes.*
- (f) *Self-defense is an affirmative defense to a violation of this section.*
- (g) Nothing in this section shall affect any civil remedies available for violation of this section.

### **N.C. GEN. STAT. § 14-360. Cruelty to animals; construction of section.**

- (a) If any person shall intentionally overdrive, overload, wound, injure, torment, kill, or deprive of necessary sustenance, or cause or procure to be overdriven, overloaded, wounded, injured, tormented, killed, or deprived of necessary sustenance, any animal, every such offender shall for every such offense be guilty of a Class 1 misdemeanor.
- (a1) If any person shall maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance, that person shall be guilty of a Class H felony.
- (b) If any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal, every such offender shall for every such offense be guilty of a Class H felony. However, nothing in this section shall be construed to increase the penalty for cockfighting provided for in G.S. 14-362.
- (c) As used in this section, the words “torture”, “torment”, and “cruelly” include or refer to any act, omission, or neglect causing or permitting *unjustifiable pain, suffering, or death.*

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

As used in this section, the word “intentionally” refers to an act committed knowingly and without justifiable excuse, while the word “maliciously” means an act committed intentionally and with malice or bad motive. As used in this section, the term “animal” includes every living vertebrate in the classes Amphibia, Reptilia, Aves, and Mammalia except human beings. *However, this section shall not apply to the following activities:*

- (1) *The lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, except that this section shall apply 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.*
- (2a) *Lawful activities conducted for the primary purpose of providing food for human or animal consumption.*
- (3) *Activities conducted for lawful veterinary purposes.*
- (4) *The lawful destruction of any animal for the purposes of protecting the public, other animals, property, or the public health.*
- (5) *The physical alteration of livestock or poultry for the purpose of conforming with breed or show standards.*

### **N.C. GEN. STAT. § 19A-1.1. Exemptions.**

**NOTE:** *The following exemptions apply to North Carolina’s civil remedies for the protection of animals, Chapter 19A, Article 1*

*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.*

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### 4. FIGHTING AND RACKETEERING

#### **N.C. GEN. STAT. § 14-362. Cockfighting.**

*A person who instigates, promotes, conducts, is employed at, allows property under his ownership or control to be used for, participates as a spectator at, or profits from an exhibition featuring the fighting of a cock is guilty of a Class I felony. A lease of property that is used or is intended to be used for an exhibition featuring the fighting of a cock is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately.*

#### **N.C. GEN. STAT. § 14-362.1. Animal fights and baiting, other than cock fights, dog fights and dog baiting.**

- (a) *A person who instigates, promotes, conducts, is employed at, provides an animal for, allows property under his ownership or control to be used for, or profits from an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is guilty of a Class 2 misdemeanor. A lease of property that is used or is intended to be used for an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is void, and a lessor who knows this use is made or is intended to be made of his property is under a duty to evict the lessee immediately.*
- (b) *A person who owns, possesses, or trains an animal, other than a cock or a dog, with the intent that the animal be used in an exhibition featuring the fighting or baiting of that animal or any other animal is guilty of a Class 2 misdemeanor.*
- (c) *A person who participates as a spectator at an exhibition featuring the fighting or baiting of an animal, other than a cock or a dog, is guilty of a Class 2 misdemeanor.*
- (d) *A person who commits an offense under subsection (a) within three years after being convicted of an offense under this section is guilty of a Class I felony.*
- (e) *This section does not prohibit the lawful taking or training of animals under the jurisdiction and regulation of the Wildlife Resources Commission.*

#### **N.C. GEN. STAT. § 14-362.2. Dog fighting and baiting.**

- (a) *A person who instigates, promotes, conducts, is employed at, provides a dog for, allows property under the person's ownership or control to be used for, gambles on, or profits from an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony. A lease of property that is used or is intended to be used for an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is void, and a lessor who knows this use*

**ANIMAL PROTECTION LAWS OF NORTH CAROLINA**

*is made or is intended to be made of the lessor's property is under a duty to evict the lessee immediately.*

- (b) A person who owns, possesses, or trains a dog with the intent that the dog be used in an exhibition featuring the baiting of that dog or the fighting of that dog with another dog or with another animal is guilty of a Class H felony.*
- (c) A person who participates as a spectator at an exhibition featuring the baiting of a dog or the fighting of a dog with another dog or with another animal is guilty of a Class H felony.*
- (d) This section does not prohibit the use of dogs in the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.*
- (e) This section does not prohibit the use of dogs in earthdog trials that are sanctioned or sponsored by entities approved by the Commissioner of Agriculture that meet standards that protect the health and safety of the dogs. Quarry at an earthdog trial shall at all times be kept separate from the dogs by a sturdy barrier, such as a cage, and have access to food and water.*
- (f) This section does not apply to the use of herding dogs engaged in the working of domesticated livestock for agricultural, entertainment, or sporting purposes.*



## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### 5. SEXUAL ASSAULT

#### **N.C. GEN. STAT. § 14-177. Crime against nature.**

*If any person shall commit the crime against nature, with mankind or beast, he shall be punished as a Class I felon.*

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### 6. CRUELTY TO WORKING ANIMALS

#### **N.C. GEN. STAT. § 14-163.1. Assaulting a law enforcement agency animal, an assistance animal, or a search and rescue animal.**

(a) *The following definitions apply in this section:*

- (1) *Assistance animal.--An animal that is trained and may be used to assist a "person with a disability" as defined in G.S. 168A-3. The term "assistance animal" is not limited to a dog and includes any animal trained to assist a person with a disability as provided in Article 1 of Chapter 168 of the General Statutes.*
- (2) *Law enforcement agency animal.--An animal that is trained and may be used to assist a law enforcement officer in the performance of the officer's official duties.*
- (3) *Harm.--Any injury, illness, or other physiological impairment; or any behavioral impairment that impedes or interferes with duties performed by a law enforcement agency animal or an assistance animal.*
- (3a) *Search and rescue animal.--An animal that is trained and may be used to assist in a search and rescue operation.*
- (4) *Serious harm.--Harm that does any of the following:*
  - a. *Creates a substantial risk of death.*
  - b. *Causes maiming or causes substantial loss or impairment of bodily function.*
  - c. *Causes acute pain of a duration that results in substantial suffering.*
  - d. *Requires retraining of the law enforcement agency animal or assistance animal.*
  - e. *Requires retirement of the law enforcement agency animal or assistance animal from performing duties.*

- (a1) *Any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully kills the animal is guilty of a Class H felony.*
- (b) *Any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully causes or attempts to cause serious harm to the animal is guilty of a Class I felony.*
- (c) *Unless the conduct is covered under some other provision of law providing greater punishment, any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully causes or attempts to cause harm to the animal is guilty of a Class 1 misdemeanor.*
- (d) *Unless the conduct is covered under some other provision of law providing greater punishment, any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully taunts, teases, harasses, delays, obstructs, or attempts to delay or obstruct the animal in the performance of its duty as a law enforcement agency animal, an assistance animal, or a search and rescue animal is guilty of a Class 2 misdemeanor.*

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

- (d1) A defendant convicted of a violation of this section shall be ordered to make restitution to the person with a disability, or to a person, group, or law enforcement agency who owns or is responsible for the care of the law enforcement agency animal or search and rescue animal for any of the following as appropriate:
- (1) Veterinary, medical care, and boarding expenses for the law enforcement agency animal, the assistance animal, or the search and rescue animal.
  - (2) Medical expenses for the person with the disability relating to the harm inflicted upon the assistance animal.
  - (3) Replacement and training or retraining expenses for the law enforcement agency animal, the assistance animal, or the search and rescue animal.
  - (4) Expenses incurred to provide temporary mobility services to the person with a disability.
  - (5) Wages or income lost while the person with a disability is with the assistance animal receiving training or retraining.
  - (6) The salary of the law enforcement agency animal handler as a result of the lost services to the agency during the time the handler is with the law enforcement agency animal receiving training or retraining.
  - (6a) The salary of the search and rescue animal handler as a result of the search and rescue services lost during the time the handler is with the search and rescue animal receiving training or retraining.
  - (7) Any other expense reasonably incurred as a result of the offense.
- (e) This section shall not apply to a licensed veterinarian whose conduct is in accordance with Article 11 of Chapter 90 of the General Statutes.
- (f) Self-defense is an affirmative defense to a violation of this section.
- (g) Nothing in this section shall affect any civil remedies available for violation of this section.

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

## 7. MAXIMUM PENALTIES &amp; STATUTES OF LIMITATIONS

**N.C. GEN. STAT. § 15A-1340.17. Punishment limits for each class of offense and prior record level.**

- (a) *Offense Classification; Default Classifications.* —The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a felony for which there is no classification, it is a Class I felony.
- (b) *Fines.* —Any judgment that includes a sentence of imprisonment may also include a fine. If a community punishment is authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.
- (c) *Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described.* —The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:
- (1) A sentence disposition or dispositions: “C” indicates that a community punishment is authorized; “I” indicates that an intermediate punishment is authorized; “A” indicates that an active punishment is authorized; and “Life Imprisonment Without Parole” indicates that the defendant shall be imprisoned for the remainder of the prisoner’s natural life.
  - (2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.
  - (3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.
  - (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

	PRIOR RECORD LEVEL					
	I	II	III	IV	V	VI
	0-1 Pt	2-5 Pts	6-9 Pts	10-13 Pts	14-17 Pts	18+ Pts
A	Life Imprisonment With Parole or Without Parole, or Death, as Established by Statute					

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

	A 240-300	A 276-345	A 317-397	A 365-456	A Life Imprisonment Without Parole	A 386-	DISPOSITION Aggravated
B1	192-	221-	254-	292-	336-	386-	PRESUMPTIVE
	240	276	317	365	420	483	
	144-	166-	190-	219-	252-	290-	Mitigated
	192	221	254	292	336	386	
B2	A	A	A	A	A	A	DISPOSITION Aggravated
	157-	180-	207-	238-	273-	314-	
	196	225	258	297	342	393	
	125-	144-	165-	190-	219-	251-	PRESUMPTIVE
	157	180	207	238	273	314	
	94-	108-	124-	143-	164-	189-	Mitigated
125	144	165	190	219	251		
C	A	A	A	A	A	A	DISPOSITION Aggravated
	73-92	83-	96-	110-	127-	146-	
		104	120	138	159	182	
	58-73	67-	77-	88-	101-	117-	PRESUMPTIVE
		83	96	110	127	146	
	44-58	50-	58-	66-	76-	87-	Mitigated
	67	77	88	101	117		
D	A	A	A	A	A	A	DISPOSITION Aggravated
	64-80	73-	84-	97-	111-	128-	
		92	105	121	139	160	
	51-64	59-	67-	78-	89-	103-	PRESUMPTIVE
		73	84	97	111	128	
	38-51	44-	51-	58-	67-	77-	Mitigated
	59	67	78	89	103		
E	I/A	I/A	A	A	A	A	DISPOSITION Aggravated
	25-31	29-	33-	38-	44-	50-	
		36	41	48	55	63	
	20-25	23-	26-	30-	35-	40-	PRESUMPTIVE
		29	33	38	44	50	
	15-20	17-	20-	23-	26-	30-	Mitigated
	23	26	30	35	40		
F	I/A	I/A	I/A	A	A	A	DISPOSITION Aggravated
	16-20	19-	21-	25-	28-	33-	
		23	27	31	36	41	
	13-16	15-	17-	20-	23-	26-	PRESUMPTIVE
		19	21	25	28	33	
	10-13	11-	13-	15-	17-	20-	Mitigated
	15	17	20	23	26		
G	I/A	I/A	I/A	I/A	A	A	DISPOSITION Aggravated
	13-16	14-	17-	19-	22-	25-	
		18	21	24	27	31	
	10-13	12-	13-	15-	17-	20-	PRESUMPTIVE
		14	17	19	22	25	
	8-10	9-12	10-	11-	13-	15-	Mitigated
		13	15	17	20		

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

	C/I/A 6-8	I/A 8-10	I/A 10- 12	I/A 11- 14	I/A 15- 19	A 20- 25	DISPOSITION Aggravated
H	5-6	6-8	8-10	9-11	12- 15	16- 20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12- 16	Mitigated
	C 6-8	C/I 6-8	I 6-8	I/A 8-10	I/A 9-11	I/A 10- 12	DISPOSITION Aggravated
I	4-6 3-4	4-6 3-4	5-6 4-5	6-8 4-6	7-9 5-7	8-10 6-8	PRESUMPTIVE Mitigated

(d) *Maximum Sentences Specified for Class F through Class I Felonies.*— Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

3-13	4-14	5-15	6-17	7-18	8-19	9-20	10-21
11-23	12-24	13-25	14- 26	15-27	16-29	17-30	18-31
19-32	20-33	21-35	22- 36	23-37	24-38	25-39	26-41
27-42	28-43	29-44	30- 45	31-47	32-48	33-49	34-50
35-51	36-53	37-54	38- 55	39-56	40-57	41-59	42-60
43-61	44-62	45-63	46-65	47-66	48-67	49-68	

(e) *Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months.* Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

15-30	16-32	17-33	18-34	19-35	20-36	21-38	22-39
23-40	24-41	25-42	26-44	27-45	28-46	29-47	30-48
31-50	32-51	33-52	34-53	35-54	36-56	37-57	38-58
39-59	40-60	41-62	42-63	43-64	44-65	45-66	46-68
47-69	48-70	49-71	50-72	51-74	52-75	53-76	54-77
55-78	56-80	57-81	58-82	59-83	60-84	61-86	62-87
63-88	64-89	65-90	66-92	67-93	68-94	69-95	70-96
71-98	72-99	73-100	74-101	75-102	76-104	77-105	78-106
79-107	80-108	81-110	82-111	83-112	84-113	85-114	86-116

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

87-117	88-118	89-119	90-120	91-122	92-123	93-124	94-125
95-126	96-128	97-129	98-130	99-131	100-132	101-134	102-135
103-136	104-137	105-138	106-140	107-141	108-142	109-143	110-144
111-146	112-147	113-148	114-149	115-150	116-152	117-153	118-154
119-155	120-156	121-158	122-159	123-160	124-161	125-162	126-164
127-165	128-166	129-167	130-168	131-170	132-171	133-172	134-173
135-174	136-176	137-177	138-178	139-179	140-180	141-182	142-183
143-184	144-185	145-186	146-188	147-189	148-190	149-191	150-192
151-194	152-195	153-196	154-197	155-198	156-200	157-201	158-202
159-203	160-204	161-206	162-207	163-208	164-209	165-210	166-212
167-213	168-214	169-215	170-216	171-218	172-219	173-220	174-221
175-222	176-224	177-225	178-226	179-227	180-228	181-230	182-231
183-232	184-233	185-234	186-236	187-237	188-238	189-239	190-240
191-242	192-243	193-244	194-245	195-246	196-248	197-249	198-250
199-251	200-252	201-254	202-255	203-256	204-257	205-258	206-260
207-261	208-262	209-263	210-264	211-266	212-267	213-268	214-269
215-270	216-272	217-273	218-274	219-275	220-276	221-278	222-279
223-280	224-281	225-282	226-284	227-285	228-286	229-287	230-288
231-290	232-291	233-292	234-293	235-294	236-296	237-297	238-298
239-299	240-300	241-302	242-303	243-304	244-305	245-306	246-308
247-309	248-310	249-311	250-312	251-314	252-315	253-316	254-317
255-318	256-320	257-321	258-322	259-323	260-324	261-326	262-327
263-328	264-329	265-330	266-332	267-333	268-334	269-335	270-336
271-338	272-339	273-340	274-341	275-342	276-344	277-345	278-346
279-347	280-348	281-350	282-351	283-352	284-353	285-354	286-356
287-357	288-358	289-359	290-360	291-362	292-363	293-364	294-365
295-366	296-368	297-369	298-370	299-371	300-372	301-374	302-375
303-376	304-377	305-378	306-380	307-381	308-382	309-383	310-384
311-386	312-387	313-388	314-389	315-390	316-392	317-393	318-394
319-395	320-396	321-398	322-399	323-400	324-401	325-402	326-404
327-405	328-406	329-407	330-408	331-410	332-411	333-412	334-413
335-414	336-416	337-417	338-418	339-419.			

- (e1) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms of 340 Months or More.— Unless provided otherwise in a statute establishing a punishment for a specific crime, when the minimum sentence is 340 months or more, the corresponding maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus 12 additional months.
- (f) Maximum Sentences Specified for Class B1 Through Class E Sex Offenses.— Unless provided otherwise in a statute establishing a punishment for a specific crime, for offenders sentenced for a Class B1 through E felony that is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes, the maximum

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus 60 additional months.

### N.C. GEN. STAT. § 15A-1340.23. Punishment limits for each class of offense and prior conviction level.

- (a) *Offense Classification; Default Classifications.* — The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a misdemeanor for which there is no classification, it is as classified in G.S. 14-3.
- (b) *Fines.* — Any judgment that includes a sentence of imprisonment may also include a fine. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. If a community punishment is authorized, the judgment may consist of a fine only. Unless otherwise provided for a specific offense, the maximum fine that may be imposed is two hundred dollars (\$200.00) for a Class 3 misdemeanor and one thousand dollars (\$1,000) for a Class 2 misdemeanor. The amount of the fine for a Class 1 misdemeanor and a Class A1 misdemeanor is in the discretion of the court.
- (c) *Punishment for Each Class of Offense and Prior Conviction Level; Punishment Chart Described.* — Unless otherwise provided for a specific offense, the authorized punishment for each class of offense and prior conviction level is as specified in the chart below. Prior conviction levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offenses are indicated by the Arabic numbers placed vertically on the left side of the chart. Each grid on the chart contains the following components:
- (1) A sentence disposition or dispositions: “C” indicates that a community punishment is authorized; “I” indicates that an intermediate punishment is authorized; and “A” indicates that an active punishment is authorized; and
  - (2) A range of durations for the sentence of imprisonment: any sentence within the duration specified is permitted.

MISDEMEANOR OFFENSE CLASS	PRIOR CONVICTION LEVELS		
	<u>LEVEL I</u> No Prior Convictions	<u>LEVEL II</u> One to Four Prior Convictions	<u>LEVEL III</u> Five or More Prior Convictions
A1	1-60 days C/I/A	1-75 days C/I/A	1-150 days C/I/A
1	1-45 days C	1-45 days C/I/A	1-120 days C/I/A
2	1-30 days C	1-45 days C/I	1-60 days C/I/A



## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

3	1-10 days C	1-20 days C/I/A.
	1-15 days C if one to three prior convictions 1-15 days C/I if four prior convictions	

(d) *Fine Only for Certain Class 3 Misdemeanors.* — Unless otherwise provided for a specific offense, the judgment for a person convicted of a Class 3 misdemeanor who has no more than three prior convictions shall consist only of a fine.

### N.C. GEN. STAT. § 15-1. Statute of limitations for misdemeanors.

- (a) *The crimes of deceit and malicious mischief, and the crime of petit larceny where the value of the property does not exceed five dollars (\$5.00), and all misdemeanors except malicious misdemeanors, shall be charged within two years after the commission of the same, and not afterwards:* Provided, that if any pleading shall be defective, so that no judgment can be given thereon, another prosecution may be instituted for the same offense, within one year after the first shall have been abandoned by the State.
- (b) Notwithstanding subsection (a) of this section, the following misdemeanors shall be charged within 10 years of the commission of the crime:
- (1) G.S. 7B-301(b).
  - (2) G.S. 14-27.33.
  - (3) G.S. 14-202.2.
  - (4) G.S. 14-318.2.
  - (5) G.S. 14-318.6.

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**ANIMAL PROTECTION LAWS OF NORTH CAROLINA**

**8. CROSS ENFORCEMENT & REPORTING**

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**ANIMAL PROTECTION LAWS OF NORTH CAROLINA****9. VETERINARY REPORTING & IMMUNITY****N.C. GEN. STAT. § 14-360.1. Immunity for veterinarian reporting animal cruelty.**

*Any veterinarian licensed in this State who has reasonable cause to believe that an animal has been the subject of animal cruelty in violation of G.S. 14-360 and who makes a report of animal cruelty, or who participates in any investigation or testifies in any judicial proceeding that arises from a report of animal cruelty, shall be immune from civil liability, criminal liability, and liability from professional disciplinary action and shall not be in breach of any veterinarian-patient confidentiality, unless the veterinarian acted in bad faith or with a malicious purpose. It shall be a rebuttable presumption that the veterinarian acted in good faith. A failure by a veterinarian to make a report of animal cruelty shall not constitute grounds for disciplinary action under G.S. 90-187.8.*

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### 10. LAW ENFORCEMENT POLICIES

#### **N.C. GEN. STAT. § 19A-45. Appointment of animal cruelty investigators; term of office; removal; badge; oath; bond.**

- (a) *The board of county commissioners is authorized to appoint one or more animal cruelty investigators to serve without any compensation or other employee benefits in his county. In making these appointments, the board may consider persons nominated by any society incorporated under North Carolina law for the prevention of cruelty to animals. Prior to making any such appointment, the board of county commissioners is authorized to enter into an agreement whereby any necessary expenses of caring for seized animals not collectable pursuant to G.S. 19A-47 may be paid by the animal cruelty investigator or by any society incorporated under North Carolina law for the prevention of cruelty to animals that is willing to bear such expense.*
- (b) *Animal cruelty investigators shall serve a one-year term subject to removal for cause by the board of county commissioners. Animal cruelty investigators shall, while in the performance of their official duties, wear in plain view a badge of a design approved by the board identifying them as animal cruelty investigators, and provided at no cost to the county.*
- (c) *Animal cruelty investigators shall take and subscribe the oath of office required of public officials. The oath shall be filed with the clerk of superior court. Animal cruelty investigators shall not be required to post any bond.*
- (d) *Upon approval by the board of county commissioners, the animal cruelty investigator or investigators may be reimbursed for all necessary and actual expenses, to be paid by the county.*

#### **N.C. GEN. STAT. § 19A-46. Powers; magistrate's order; execution of order; petition; notice to owner.**

- (a) *Whenever any animal is being cruelly treated as defined in G.S. 19A-1(2), an animal cruelty investigator may file with a magistrate a sworn complaint requesting an order allowing the investigator to provide suitable care for and take immediate custody of the animal. The magistrate shall issue the order only when he finds probable cause to believe that the animal is being cruelly treated and that it is necessary for the investigator to immediately take custody of it. Any magistrate's order issued under this section shall be valid for only 24 hours after its issuance. After he executes the order, the animal cruelty investigator shall return it with a written inventory of the animals seized to the clerk of court in the county where the order was issued.*
- (b) *The animal cruelty investigator may request a law-enforcement officer or animal control officer to accompany him to help him seize the animal. An investigator may forcibly enter any premises or vehicle when necessary to execute the order only if he reasonably*

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

*believes that the premises or vehicle is unoccupied by any person and that the animal is on the premises or in the vehicle. Forcible entry shall be used only when the animal cruelty investigator is accompanied by a law-enforcement officer. In any case, he must give notice of his identity and purpose to anyone who may be present before entering said premises. Forcible entry shall only be used during the daylight hours.*

- (c) When he has taken custody of such an animal, the animal cruelty investigator shall file a complaint pursuant to Article 1 of this Chapter as soon as possible. When he seizes the animal, he shall leave with the owner, if known, or affixed to the premises or vehicle a copy of the magistrate's order and a written notice of a description of the animal, the place where the animal will be taken, the reason for taking the animal, and the investigator's intent to file a complaint in district court requesting custody of the animal pursuant to Article 1 of this Chapter.
- (d) Notwithstanding the provisions of G.S. 7A-305(c), any person who commences a proceeding under this Article or Article 1 of this Chapter shall not be required to pay any court costs or fees prior to a final judicial determination as provided in G.S. 19A-4, at which time those costs shall be paid pursuant to the provisions of G.S. 6-18.
- (e) Any judicial order authorizing forcible entry shall be issued by a district court judge.

### **N.C. GEN. STAT. § 19A-48. Interference unlawful.**

*It shall be a Class 1 misdemeanor, to interfere with an animal cruelty investigator in the performance of his official duties.*

### **N.C. GEN. STAT. § 19A-49. Educational requirements.**

*Each animal cruelty investigator at his own expense must attend annually a course of at least six hours instruction offered by the North Carolina Humane Federation or some other agency. The course shall be designed to give the investigator expertise in the investigation of complaints relating to the care and treatment of animals. Failure to attend a course approved by the board of county commissioners shall be cause for removal from office.*

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### 11. SEIZURE

#### **N.C. GEN. STAT. § 14-363.2. Confiscation of cruelly treated animals.**

*Conviction of any offense contained in this Article may result in confiscation of cruelly treated animals belonging to the accused and it shall be proper for the court in its discretion to order a final determination of the custody of the confiscated animals.*

#### **N.C. GEN. STAT. § 19A-3. Preliminary injunction.**

- (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.*

#### **N.C. GEN. STAT. § 19A-46. Powers; magistrate's order; execution of order; petition; notice to owner.**

- (a) *Whenever any animal is being cruelly treated as defined in G.S. 19A-1(2), an animal cruelty investigator may file with a magistrate a sworn complaint requesting an order allowing the investigator to provide suitable care for and take immediate custody of the animal. The magistrate shall issue the order only when he finds probable cause to believe that the animal is being cruelly treated and that it is necessary for the investigator to immediately take custody of it. Any magistrate's order issued under this section shall be valid for only 24 hours after its issuance. After he executes the order, the*

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

*animal cruelty investigator shall return it with a written inventory of the animals seized to the clerk of court in the county where the order was issued.*

- (b) *The animal cruelty investigator may request a law-enforcement officer or animal control officer to accompany him to help him seize the animal. An investigator may forcibly enter any premises or vehicle when necessary to execute the order only if he reasonably believes that the premises or vehicle is unoccupied by any person and that the animal is on the premises or in the vehicle. Forcible entry shall be used only when the animal cruelty investigator is accompanied by a law-enforcement officer. In any case, he must give notice of his identity and purpose to anyone who may be present before entering said premises. Forcible entry shall only be used during the daylight hours.*
- (c) *When he has taken custody of such an animal, the animal cruelty investigator shall file a complaint pursuant to Article 1 of this Chapter as soon as possible. When he seizes the animal, he shall leave with the owner, if known, or affixed to the premises or vehicle a copy of the magistrate's order and a written notice of a description of the animal, the place where the animal will be taken, the reason for taking the animal, and the investigator's intent to file a complaint in district court requesting custody of the animal pursuant to Article 1 of this Chapter.*
- (d) Notwithstanding the provisions of G.S. 7A-305(c), any person who commences a proceeding under this Article or Article 1 of this Chapter shall not be required to pay any court costs or fees prior to a final judicial determination as provided in G.S. 19A-4, at which time those costs shall be paid pursuant to the provisions of G.S. 6-18.
- (e) *Any judicial order authorizing forcible entry shall be issued by a district court judge.*

### **N.C. GEN. STAT. § 19A-70. Care of animal subjected to illegal treatment.**

- (a) In every arrest under any provision of Article 47 of Chapter 14 of the General Statutes or under G.S. 67-4.3 or upon the commencement of an action under Article 1 of this Chapter by a county or municipality, by a county-approved animal cruelty investigator, by other county or municipal official, or by an organization operating a county or municipal shelter under contract, if an animal shelter takes custody of an animal, the operator of the shelter may file a petition with the court requesting that the defendant be ordered to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the animal shelter in caring for and providing for the animal pending the disposition of the litigation. For purposes of this section, "reasonable expenses" includes the cost of providing food, water, shelter, and care, including medical care, for at least 30 days.
- (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. The hearing shall be conducted no less than 10 and no more than 15 business days after the petition is filed. The operator of the animal shelter shall mail written notice of the hearing and a copy of the petition to the defendant at the address contained in the criminal charges or the complaint or summons by which a civil action was initiated. If

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

the defendant is in a local detention facility at the time the petition is filed, the operator of the animal shelter shall also provide notice to the custodian of the detention facility.

- (c) The court shall set the amount of funds necessary for 30 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 operator of the animal shelter, the estimated cost of caring for and providing for the animal, and the defendant's ability to pay. If the court determines that the defendant is unable to deposit funds, the court may consider issuing an order under subsection (f) of this section.

Any order for funds to be deposited pursuant to this section shall state that if the operator of the animal shelter files an affidavit with the clerk of superior court, at least two business days prior to the expiration of a 30-day period, stating that, to the best of the affiant's knowledge, the case against the defendant has not yet been resolved, the order shall be automatically renewed every 30 days until the case is resolved.

- (d) If the court orders that funds be deposited, the amount of funds necessary for 30 days shall be posted with the clerk of superior court. The defendant shall also deposit the same amount with the clerk of superior court every 30 days thereafter until the litigation is resolved, unless the defendant requests a hearing no less than five business days prior to the expiration of a 30-day period. If the defendant fails to deposit the funds within five business days of the initial hearing, or five business days of the expiration of a 30-day period, the animal is forfeited by operation of law. If funds have been deposited in accordance with this section, the operator of the animal shelter may draw from the funds the actual costs incurred in caring for the animal.

In the event of forfeiture, the animal shelter may 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 the adopted animal is a dog used for fighting, the animal shelter shall notify any persons adopting the dog of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67 of the General Statutes. If no adoption can be arranged after the forfeiture, or the animal is unsuitable for adoption, the shelter shall humanely euthanize the animal.

- (e) The deposit of funds shall not prevent the animal shelter from disposing of the animal prior to the expiration of the 30-day period covered by the deposit if the court makes a final determination of the charges or claims against the defendant. Upon determination, the defendant is entitled to a refund for any portion of the deposit not incurred as expenses by the animal shelter. A person who is acquitted of all criminal charges or not found to have committed animal cruelty in a civil action under Article 1 of this Chapter is entitled to a refund of the deposit remaining after any draws from the deposit in accordance with subsection (d) of this section.
- (f) *Pursuant to subsection (c) of this section, the court may order a defendant to provide necessary food, water, shelter, and care, including any necessary medical care, for any animal that is the basis of the charges or claims against the defendant without the removal of the animal from the existing location and until the charges or claims against*



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**ANIMAL PROTECTION LAWS OF NORTH CAROLINA**

*the defendant are adjudicated. If the court issues such an order, the court shall provide for an animal control officer or other law enforcement officer to make regular visits to the location to ensure that the animal is receiving necessary food, water, shelter, and care, including any necessary medical care, and to impound the animal if it is not receiving those necessities.*

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**ANIMAL PROTECTION LAWS OF NORTH CAROLINA**

**12. COURTROOM ANIMAL ADVOCATE PROGRAM**

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## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

## 13. PROTECTION ORDERS

## N.C. GEN. STAT. § 50B-3. Relief.

- (a) *If the court, including magistrates as authorized under G.S. 50B-2(c1), finds that an act of domestic violence has occurred, the court shall grant a protective order restraining the defendant from further acts of domestic violence. A protective order may include any of the following types of relief:*
- (1) Direct a party to refrain from such acts.
  - (2) Grant to a party possession of the residence or household of the parties and exclude the other party from the residence or household.
  - (3) Require a party to provide a spouse and his or her children suitable alternate housing.
  - (4) Award temporary custody of minor children and establish temporary visitation rights pursuant to G.S. 50B-2 if the order is granted ex parte, and pursuant to subsection (a1) of this section if the order is granted after notice or service of process.
  - (5) Order the eviction of a party from the residence or household and assistance to the victim in returning to it.
  - (6) Order either party to make payments for the support of a minor child as required by law.
  - (7) Order either party to make payments for the support of a spouse as required by law.
  - (8) *Provide for possession of personal property of the parties, including the care, custody, and control of any animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.*
  - (9) *Order a party to refrain from doing any or all of the following:*
    - a. Threatening, abusing, or following the other party.
    - b. Harassing the other party, including by telephone, visiting the home or workplace, or other means.
    - b1. *Cruelly treating or abusing an animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.*
    - c. Otherwise interfering with the other party.
  - (10) Award attorney's fees to either party.
  - (11) Prohibit a party from purchasing a firearm for a time fixed in the order.
  - (12) Order any party the court finds is responsible for acts of domestic violence to attend and complete an abuser treatment program if the program is approved by the Domestic Violence Commission.
  - (13) Include any additional prohibitions or requirements the court deems necessary to protect any party or any minor child.
- (a1) Upon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

temporary visitation rights as follows:

- (1) In awarding custody or visitation rights, the court shall base its decision on the best interest of the minor child with particular consideration given to the safety of the minor child.
- (2) For purposes of determining custody and visitation issues, the court shall consider:
  - a. Whether the minor child was exposed to a substantial risk of physical or emotional injury or sexual abuse.
  - b. Whether the minor child was present during acts of domestic violence.
  - c. Whether a weapon was used or threatened to be used during any act of domestic violence.
  - d. Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the minor child.
  - e. Whether a party placed the aggrieved party or the minor child in reasonable fear of imminent serious bodily injury.
  - f. Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.
  - g. Whether there is a pattern of abuse against an aggrieved party or the minor child.
  - h. Whether a party has abused or endangered the minor child during visitation.
  - i. Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.
  - j. Whether a party has improperly concealed or detained the minor child.
  - k. Whether a party has otherwise acted in a manner that is not in the best interest of the minor child.
- (3) If the court awards custody, the court shall also consider whether visitation is in the best interest of the minor child. If ordering visitation, the court shall provide for the safety and well-being of the minor child and the safety of the aggrieved party. The court may consider any of the following:
  - a. Ordering an exchange of the minor child to occur in a protected setting or in the presence of an appropriate third party.
  - b. Ordering visitation supervised by an appropriate third party, or at a supervised visitation center or other approved agency.
  - c. Ordering the noncustodial parent to attend and complete, to the satisfaction of the court, an abuser treatment program as a condition of visitation.
  - d. Ordering either or both parents to abstain from possession or consumption of alcohol or controlled substances during the visitation or for 24 hours preceding an exchange of the minor child.
  - e. Ordering the noncustodial parent to pay the costs of supervised visitation.
  - f. Prohibiting overnight visitation.

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

- g. Requiring a bond from the noncustodial parent for the return and safety of the minor child.
- h. Ordering an investigation or appointment of a guardian ad litem or attorney for the minor child.
- i. Imposing any other condition that is deemed necessary to provide for the safety and well-being of the minor child and the safety of the aggrieved party.

If the court grants visitation, the order shall specify dates and times for the visitation to take place or other specific parameters or conditions that are appropriate. A person, supervised visitation center, or other agency may be approved to supervise visitation after appearing in court or filing an affidavit accepting that responsibility and acknowledging accountability to the court.

- (4) A temporary custody order entered pursuant to this Chapter shall be without prejudice and shall be for a fixed period of time not to exceed one year. Nothing in this section shall be construed to affect the right of the parties to a de novo hearing under Chapter 50 of the General Statutes. Any subsequent custody order entered under Chapter 50 of the General Statutes supersedes a temporary order issued pursuant to this Chapter.
  - (a2) If the court orders that the defendant attend an abuser treatment program pursuant to G.S. 50B-3(a)(12), the defendant shall begin regular attendance of the program within 60 days of the entry of the order. When ordering a defendant to attend an abuser treatment program, the court shall also specify a date and time for a review hearing with the court to assess whether the defendant has complied with that part of the order. The review hearing shall be held as soon as practicable after 60 days from the entry of the original order. The date of the review shall be set at the same time as the entry of the original order, and the clerk shall issue a Notice of Hearing for the compliance review to be given to the defendant and filed with the court on the same day as the entry of the order. If a defendant is not present in court at the time the order to attend an abuser treatment program is entered and the Notice of Hearing for review is filed, the clerk shall serve a copy of the Notice of Hearing together with the service of the order. The plaintiff may, but is not required to, attend the 60-day review hearing.
  - (a3) At any time prior to the 60-day review hearing set forth in subsection (a2) of this section, a defendant who is ordered to attend an abuser treatment program may present to the clerk a written statement from an abuser treatment program showing that the defendant has enrolled in and begun regular attendance in an abuser treatment program. Upon receipt of the written statement, the clerk shall remove the 60-day review hearing from the court docket, and the defendant shall not be required to appear for the 60-day review hearing. The clerk shall also notify the plaintiff that the defendant has complied with the order and that no 60-day review hearing will occur.
- (b) Protective orders entered pursuant to this Chapter shall be for a fixed period of time not to exceed one year. The court may renew a protective order for a fixed period of time not to exceed two years, including an order that previously has been renewed, upon a

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

motion by the aggrieved party filed before the expiration of the current order; provided, however, that a temporary award of custody entered as part of a protective order may not be renewed to extend a temporary award of custody beyond the maximum one-year period. The court may renew a protective order for good cause. The commission of an act as defined in G.S. 50B-1(a) by the defendant after entry of the current order is not required for an order to be renewed. Protective orders entered, including consent orders, shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved. Protective orders entered pursuant to this Chapter expire at 11:59 P.M. on the indicated expiration date, unless specifically stated otherwise in the order.

- (b1) A consent protective order may be entered pursuant to this Chapter without findings of fact and conclusions of law if the parties agree in writing that no findings of fact and conclusions of law will be included in the consent protective order. The consent protective order shall be valid and enforceable and shall have the same force and effect as a protective order entered with findings of fact and conclusions of law.
- (b2) Upon the written request of either party at a hearing after notice or service of process, the court may modify any protection order entered pursuant to this Chapter after a finding of good cause.
- (c) A copy of any order entered and filed under this Article shall be issued to each party. Law enforcement agencies shall accept receipt of copies of the order issued by the clerk of court by electronic or facsimile transmission for service on defendants. In addition, a copy of the order shall be issued promptly to and retained by the police department of the city of the victim's residence. If the victim does not reside in a city or resides in a city with no police department, copies shall be issued promptly to and retained by the sheriff, and the county police department, if any, of the county in which the victim resides. If the defendant is ordered to stay away from the child's school, a copy of the order shall be delivered promptly by the sheriff to the principal or, in the principal's absence, the assistant principal or the principal's designee of each school named in the order.
- (c1) When a protective order issued under this Chapter is filed with the Clerk of Superior Court, the clerk shall provide to the applicant an informational sheet developed by the Administrative Office of the Courts that includes:
  - (1) Domestic violence agencies and services.
  - (2) Sexual assault agencies and services.
  - (3) Victims' compensation services.
  - (4) Legal aid services.
  - (5) Address confidentiality services.
  - (6) An explanation of the plaintiff's right to apply for a permit under G.S. 14-415.15.

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### 14. RESTITUTION

#### **N.C. GEN. STAT. § 19A-47. Care of seized animal.**

*The investigator must take any animal he seizes directly to some safe and secure place and provide suitable care for it. The necessary expenses of caring for seized animals, including necessary veterinary care, shall be a charge against the animal's owner and a lien on the animal to be enforced as provided by G.S. 44A-4.*

#### **N.C. GEN. STAT. § 19A-70. Care of animal subjected to illegal treatment.**

- (a) *In every arrest under any provision of Article 47 of Chapter 14 of the General Statutes or under G.S. 67-4.3 or upon the commencement of an action under Article 1 of this Chapter by a county or municipality, by a county-approved animal cruelty investigator, by other county or municipal official, or by an organization operating a county or municipal shelter under contract, if an animal shelter takes custody of an animal, the operator of the shelter may file a petition with the court requesting that the defendant be ordered to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the animal shelter in caring for and providing for the animal pending the disposition of the litigation. For purposes of this section, "reasonable expenses" includes the cost of providing food, water, shelter, and care, including medical care, for at least 30 days.*
- (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. The hearing shall be conducted no less than 10 and no more than 15 business days after the petition is filed. The operator of the animal shelter shall mail written notice of the hearing and a copy of the petition to the defendant at the address contained in the criminal charges 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 operator of the animal shelter shall also provide notice to the custodian of the detention facility.*
- (c) *The court shall set the amount of funds necessary for 30 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 operator of the animal shelter, the estimated cost of caring for and providing for the animal, and the defendant's ability to pay. If the court determines that the defendant is unable to deposit funds, the court may consider issuing an order under subsection (f) of this section.*

*Any order for funds to be deposited pursuant to this section shall state that if the operator of the animal shelter files an affidavit with the clerk of superior court, at least two business days prior to the expiration of a 30-day period, stating that, to the best of*

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

*the affiant's knowledge, the case against the defendant has not yet been resolved, the order shall be automatically renewed every 30 days until the case is resolved.*

- (d) *If the court orders that funds be deposited, the amount of funds necessary for 30 days shall be posted with the clerk of superior court. The defendant shall also deposit the same amount with the clerk of superior court every 30 days thereafter until the litigation is resolved, unless the defendant requests a hearing no less than five business days prior to the expiration of a 30-day period. If the defendant fails to deposit the funds within five business days of the initial hearing, or five business days of the expiration of a 30-day period, the animal is forfeited by operation of law. If funds have been deposited in accordance with this section, the operator of the animal shelter may draw from the funds the actual costs incurred in caring for the animal.*

In the event of forfeiture, the animal shelter may 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 the adopted animal is a dog used for fighting, the animal shelter shall notify any persons adopting the dog of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67 of the General Statutes. If no adoption can be arranged after the forfeiture, or the animal is unsuitable for adoption, the shelter shall humanely euthanize the animal.

- (e) *The deposit of funds shall not prevent the animal shelter from disposing of the animal prior to the expiration of the 30-day period covered by the deposit if the court makes a final determination of the charges or claims against the defendant. Upon determination, the defendant is entitled to a refund for any portion of the deposit not incurred as expenses by the animal shelter. A person who is acquitted of all criminal charges or not found to have committed animal cruelty in a civil action under Article 1 of this Chapter is entitled to a refund of the deposit remaining after any draws from the deposit in accordance with subsection (d) of this section.*
- (f) Pursuant to subsection (c) of this section, the court may order a defendant to provide necessary food, water, shelter, and care, including any necessary medical care, for any animal that is the basis of the charges or claims against the defendant without the removal of the animal from the existing location and until the charges or claims against the defendant are adjudicated. If the court issues such an order, the court shall provide for an animal control officer or other law enforcement officer to make regular visits to the location to ensure that the animal is receiving necessary food, water, shelter, and care, including any necessary medical care, and to impound the animal if it is not receiving those necessities.

### **N.C. GEN. STAT. § 14-163.1. Assaulting a law enforcement agency animal, an assistance animal, or a search and rescue animal.**

- (a) The following definitions apply in this section:

(1) Assistance animal.--An animal that is trained and may be used to assist a "person



## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

with a disability” as defined in G.S. 168A-3. The term “assistance animal” is not limited to a dog and includes any animal trained to assist a person with a disability as provided in Article 1 of Chapter 168 of the General Statutes.

- (2) Law enforcement agency animal.--An animal that is trained and may be used to assist a law enforcement officer in the performance of the officer's official duties.
- (3) Harm.--Any injury, illness, or other physiological impairment; or any behavioral impairment that impedes or interferes with duties performed by a law enforcement agency animal or an assistance animal.
- (3a) Search and rescue animal.--An animal that is trained and may be used to assist in a search and rescue operation.
- (4) Serious harm.--Harm that does any of the following:
  - a. Creates a substantial risk of death.
  - b. Causes maiming or causes substantial loss or impairment of bodily function.
  - c. Causes acute pain of a duration that results in substantial suffering.
  - d. Requires retraining of the law enforcement agency animal or assistance animal.
  - e. Requires retirement of the law enforcement agency animal or assistance animal from performing duties.
- (a1) Any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully kills the animal is guilty of a Class H felony.
- (b) Any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully causes or attempts to cause serious harm to the animal is guilty of a Class I felony.
- (c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully causes or attempts to cause harm to the animal is guilty of a Class 1 misdemeanor.
- (d) Unless the conduct is covered under some other provision of law providing greater punishment, any person who knows or has reason to know that an animal is a law enforcement agency animal, an assistance animal, or a search and rescue animal and who willfully taunts, teases, harasses, delays, obstructs, or attempts to delay or obstruct the animal in the performance of its duty as a law enforcement agency animal, an assistance animal, or a search and rescue animal is guilty of a Class 2 misdemeanor.
- (d1) *A defendant convicted of a violation of this section shall be ordered to make restitution to the person with a disability, or to a person, group, or law enforcement agency who owns or is responsible for the care of the law enforcement agency animal or search and rescue animal for any of the following as appropriate:*
  - (1) *Veterinary, medical care, and boarding expenses for the law enforcement agency animal, the assistance animal, or the search and rescue animal.*
  - (2) *Medical expenses for the person with the disability relating to the harm inflicted upon the assistance animal.*
  - (3) *Replacement and training or retraining expenses for the law enforcement agency*

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**ANIMAL PROTECTION LAWS OF NORTH CAROLINA**

- animal, the assistance animal, or the search and rescue animal.*
- (4) *Expenses incurred to provide temporary mobility services to the person with a disability.*
  - (5) *Wages or income lost while the person with a disability is with the assistance animal receiving training or retraining.*
  - (6) *The salary of the law enforcement agency animal handler as a result of the lost services to the agency during the time the handler is with the law enforcement agency animal receiving training or retraining.*
  - (6a) *The salary of the search and rescue animal handler as a result of the search and rescue services lost during the time the handler is with the search and rescue animal receiving training or retraining.*
  - (7) *Any other expense reasonably incurred as a result of the offense.*
- (e) This section shall not apply to a licensed veterinarian whose conduct is in accordance with Article 11 of Chapter 90 of the General Statutes.
  - (f) Self-defense is an affirmative defense to a violation of this section.
  - (g) Nothing in this section shall affect any civil remedies available for violation of this section.

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### 15. FORFEITURE & POSSESSION BANS

#### **N.C. GEN. STAT. § 14-363.2. Confiscation of cruelly treated animals.**

*Conviction of any offense contained in this Article may result in confiscation of cruelly treated animals belonging to the accused and it shall be proper for the court in its discretion to order a final determination of the custody of the confiscated animals.*

#### **N.C. GEN. STAT. § 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.*

#### **N.C. GEN. STAT. § 19A-70. Care of animal subjected to illegal treatment.**

- (a) In every arrest under any provision of Article 47 of Chapter 14 of the General Statutes or under G.S. 67-4.3 or upon the commencement of an action under Article 1 of this Chapter by a county or municipality, by a county-approved animal cruelty investigator, by other county or municipal official, or by an organization operating a county or municipal shelter under contract, if an animal shelter takes custody of an animal, the operator of the shelter may file a petition with the court requesting that the defendant

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

be ordered to deposit funds in an amount sufficient to secure payment of all the reasonable expenses expected to be incurred by the animal shelter in caring for and providing for the animal pending the disposition of the litigation. For purposes of this section, “reasonable expenses” includes the cost of providing food, water, shelter, and care, including medical care, for at least 30 days.

- (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. The hearing shall be conducted no less than 10 and no more than 15 business days after the petition is filed. The operator of the animal shelter shall mail written notice of the hearing and a copy of the petition to the defendant at the address contained in the criminal charges 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 operator of the animal shelter shall also provide notice to the custodian of the detention facility.
- (c) The court shall set the amount of funds necessary for 30 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 operator of the animal shelter, the estimated cost of caring for and providing for the animal, and the defendant’s ability to pay. If the court determines that the defendant is unable to deposit funds, the court may consider issuing an order under subsection (f) of this section.

Any order for funds to be deposited pursuant to this section shall state that if the operator of the animal shelter files an affidavit with the clerk of superior court, at least two business days prior to the expiration of a 30-day period, stating that, to the best of the affiant’s knowledge, the case against the defendant has not yet been resolved, the order shall be automatically renewed every 30 days until the case is resolved.

- (d) If the court orders that funds be deposited, the amount of funds necessary for 30 days shall be posted with the clerk of superior court. The defendant shall also deposit the same amount with the clerk of superior court every 30 days thereafter until the litigation is resolved, unless the defendant requests a hearing no less than five business days prior to the expiration of a 30-day period. *If the defendant fails to deposit the funds within five business days of the initial hearing, or five business days of the expiration of a 30-day period, the animal is forfeited by operation of law.* If funds have been deposited in accordance with this section, the operator of the animal shelter may draw from the funds the actual costs incurred in caring for the animal.

*In the event of forfeiture, the animal shelter may 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 the adopted animal is a dog used for fighting, the animal shelter shall notify any persons adopting the dog of the liability provisions for owners of dangerous dogs under Article 1A of Chapter 67 of the General Statutes. If no adoption can be arranged after the forfeiture, or the animal is unsuitable for adoption, the shelter shall humanely euthanize the animal.*

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**ANIMAL PROTECTION LAWS OF NORTH CAROLINA**

- (e) The deposit of funds shall not prevent the animal shelter from disposing of the animal prior to the expiration of the 30-day period covered by the deposit if the court makes a final determination of the charges or claims against the defendant. Upon determination, the defendant is entitled to a refund for any portion of the deposit not incurred as expenses by the animal shelter. A person who is acquitted of all criminal charges or not found to have committed animal cruelty in a civil action under Article 1 of this Chapter is entitled to a refund of the deposit remaining after any draws from the deposit in accordance with subsection (d) of this section.
- (f) Pursuant to subsection (c) of this section, the court may order a defendant to provide necessary food, water, shelter, and care, including any necessary medical care, for any animal that is the basis of the charges or claims against the defendant without the removal of the animal from the existing location and until the charges or claims against the defendant are adjudicated. If the court issues such an order, the court shall provide for an animal control officer or other law enforcement officer to make regular visits to the location to ensure that the animal is receiving necessary food, water, shelter, and care, including any necessary medical care, and to impound the animal if it is not receiving those necessities.

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**ANIMAL PROTECTION LAWS OF NORTH CAROLINA**

**16. COURT-ORDERED TREATMENT**

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**ANIMAL PROTECTION LAWS OF NORTH CAROLINA****17. HOT CARS****N.C. GEN. STAT. § 14-363.3. Confinement of animals in motor vehicles.**

- (a) *In order to protect the health and safety of an animal, any animal control officer, animal cruelty investigator appointed under G.S. 19A-45, law enforcement officer, firefighter, or rescue squad worker, who has probable cause to believe that an animal is confined in a motor vehicle under conditions that are likely to cause suffering, injury, or death to the animal due to heat, cold, lack of adequate ventilation, or under other endangering conditions, may enter the motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible for the animal.*
- (b) Nothing in this section shall be construed to apply to the transportation of horses, cattle, sheep, swine, poultry, or other livestock.

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### 18. CIVIL NUISANCE ABATEMENT

#### N.C. GEN. STAT. § 19-1.1. Definitions.

As used in this Chapter relating to illegal possession or sale of obscene matter or to the other conduct prohibited in G.S. 19-1(a), the following definitions shall apply:

- (1) "Breach of the peace" means repeated acts that disturb the public order including, but not limited to, homicide, assault, affray, communicating threats, unlawful possession of dangerous or deadly weapons, and discharging firearms.
- (1a) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual conduct which appears in the lewd matter, or knowledge of the acts of lewdness. With regard to nuisances involving assignation, prostitution, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of controlled substances as defined in the North Carolina Controlled Substances Act, or repeated acts which create and constitute a breach of the peace, evidence that the defendant knew or by the exercise of due diligence should have known of the acts or conduct constitutes proof of knowledge.
- (2) "Lewd matter" is synonymous with "obscene matter" and means any matter:
  - a. Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and
  - b. Which depicts patently offensive representations of:
    1. Ultimate sexual acts, normal or perverted, actual or simulated;
    2. Masturbation, excretory functions, or lewd exhibition of the genitals or genital area;
    3. Masochism or sadism; or
    4. *Sexual acts with a child or animal.*

Nothing herein contained is intended to include or proscribe any writing or written material, nor to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political, educational, or scientific value.
- (3) "Lewdness" is synonymous with obscenity and shall mean the act of selling, exhibiting or possessing for sale or exhibition lewd matter.
- (4) "Matter" means a motion picture film or a publication or both.
- (5) "Motion picture film" shall include any:
  - a. Film or plate negative;
  - b. Film or plate positive;
  - c. Film designed to be projected on a screen for exhibition;
  - d. Films, glass slides or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;
  - e. Video tape, compact disc, digital video disc, or any other medium used to electronically reproduce images on a screen.
- (6) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.



## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

- (7) “Place” includes, but is not limited to, any building, structure or places, or any separate part or portion thereof, whether permanent or not, or the ground itself.
- (7a) “Preserving the status quo” as used in G.S. 19-2.3 means returning conditions to the last actual, peaceable, lawful, and noncontested status which preceded the pending controversy and not allow the nuisance to continue.
- (7b) “Prostitution” means offering in any manner or receiving of the body in return for a fee, for acts of vaginal intercourse, anal intercourse, fellatio, cunnilingus, masturbation, or physical contact with a person's genitals, pubic area, buttocks, or breasts, or other acts of sexual conduct offered or received for pay and sexual gratification.
- (8) “Publication” shall include any book, magazine, pamphlet, illustration, photograph, picture, sound recording, or a motion picture film which is offered for sale or exhibited in a coin-operated machine.
- (9) “Sale of obscene or lewd matter” means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer or possession of, lewd matter.
- (10) “Sale” as the term relates to proscribed acts other than sale of obscene or lewd matter shall have the same meaning as the term is defined in Chapter 18B and Chapter 90 of the General Statutes prohibiting the illegal sale of alcoholic beverages and controlled substances respectively.
- (11) “Used for profit” shall mean any use of real or personal property to produce income in any manner, including, but not limited to, any commercial or business activities, or selling, leasing, or otherwise providing goods and services for profit.

### **N.C. GEN. STAT. § 19-2.1. Action for abatement; injunction.**

*Wherever a nuisance is kept, maintained, or exists, as defined in this Article, the Attorney General, district attorney, county, municipality, or any private citizen of the county may maintain a civil action in the name of the State of North Carolina to abate a nuisance under this Chapter, perpetually to enjoin all persons from maintaining the same, and to enjoin the use of any structure or thing adjudged to be a nuisance under this Chapter; provided, however, that no private citizen may maintain such action where the alleged nuisance involves the illegal possession or sale of obscene or lewd matter.*

Upon request from the Attorney General, district attorney, county or municipality, including the sheriff or chief of police of any county or municipality, the Alcohol Law Enforcement Branch of the Department of Public Safety or any other law enforcement agency with jurisdiction may investigate alleged public nuisances and make recommendations regarding actions to abate the public nuisances.

If an action is instituted by a private person, the complainant shall execute a bond prior to the issuance of a restraining order or a temporary injunction, with good and sufficient surety to be

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

approved by the court or clerk thereof, in the sum of not less than one thousand dollars (\$1,000), to secure to the party enjoined the damages he may sustain if such action is wrongfully brought, not prosecuted to final judgment, or is dismissed, or is not maintained, or if it is finally decided that the temporary restraining order or preliminary injunction ought not to have been granted. The party enjoined shall have recourse against said bond for all damages suffered, including damages to his property, person, or character and including reasonable attorney's fees incurred by him in making defense to said action. No bond shall be required of the prosecuting attorney, the Attorney General, county, or municipality, and no action shall be maintained against any public official or public entity, their employees, or agents for investigating or maintaining an action for abatement of a nuisance under the provisions of this Chapter.

### N.C. GEN. STAT. § 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.

### N.C. GEN. STAT. § 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.

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

### **N.C. GEN. STAT. § 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.*

### **N.C. GEN. STAT. § 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.*

### **N.C. GEN. STAT. § 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.*

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**ANIMAL PROTECTION LAWS OF NORTH CAROLINA**

- (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.*

## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

## 19. AG-GAG LAWS

**N.C. GEN. STAT. § 99A-2. Recovery of damages for exceeding the scope of authorized access to property.**

- (a) *Any person who intentionally gains access to the nonpublic areas of another's premises and engages in an act that exceeds the person's authority to enter those areas is liable to the owner or operator of the premises for any damages sustained. For the purposes of this section, "nonpublic areas" shall mean those areas not accessible to or not intended to be accessed by the general public.*
- (b) For the purposes of this section, an act that exceeds a person's authority to enter the nonpublic areas of another's premises is any of the following:
- (1) *An employee who enters the nonpublic areas of an employer's premises for a reason other than a bona fide intent of seeking or holding employment or doing business with the employer and thereafter without authorization captures or removes the employer's data, paper, records, or any other documents and uses the information to breach the person's duty of loyalty to the employer.*
  - (2) *An employee who intentionally enters the nonpublic areas of an employer's premises for a reason other than a bona fide intent of seeking or holding employment or doing business with the employer and thereafter without authorization records images or sound occurring within an employer's premises and uses the recording to breach the person's duty of loyalty to the employer.*
  - (3) *Knowingly or intentionally placing on the employer's premises an unattended camera or electronic surveillance device and using that device to record images or data.*
  - (4) Conspiring in organized retail theft, as defined in Article 16A of Chapter 14 of the General Statutes.
  - (5) An act that substantially interferes with the ownership or possession of real property.
- (c) *Any person who intentionally directs, assists, compensates, or induces another person to violate this section shall be jointly liable.*
- (d) A court may award to a party who prevails in an action brought pursuant to this section one or more of the following remedies:
- (1) Equitable relief.
  - (2) Compensatory damages as otherwise allowed by State or federal law.
  - (3) Costs and fees, including reasonable attorneys' fees.
  - (4) Exemplary damages as otherwise allowed by State or federal law in the amount of five thousand dollars (\$5,000) for each day, or portion thereof, that a defendant has acted in violation of subsection (a) of this section.
- (e) Nothing in this section shall be construed to diminish the protections provided to employees under Article 21 of Chapter 95 or Article 14 of Chapter 126 of the General Statutes, nor may any party who is covered by these Articles be liable under this section.
- (f) This section shall not apply to any governmental agency or law enforcement officer

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## ANIMAL PROTECTION LAWS OF NORTH CAROLINA

engaged in a lawful investigation of the premises or the owner or operator of the premises.

- (g) Nothing in this section shall be construed to limit any other remedy available at common law or provided by the General Statutes.

**NOTE:** In a First Amendment challenge, GS 99A-2 subsections (b)(1) and (b)(2) were held unconstitutional on their face and subsections (b)(1) and (b)(5) were held unconstitutional as applied to the plaintiffs PETA and ALDF. *People for the Ethical Treatment of Animals, Inc. v. Stein*, \_\_\_ F. Supp. 3rd \_\_\_ ; 2020 WL 3130158 (M.D. N.C. June 12, 2020). The case is currently on appeal in the Court of Appeals for the Fourth Circuit, *sub nom PETA v. Josh Stein*.

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**ANIMAL PROTECTION LAWS OF NORTH CAROLINA**

**20. BREED SPECIFIC LEGISLATION**

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