

Introduced by

Senators Lyson, Nichols

Representatives Onstad, Solberg

1 A BILL for an Act to create and enact three new sections to chapter 36-21.1 of the North
2 Dakota Century Code, relating to the custody of abandoned animals; and to amend and
3 reenact sections 36-21.1-01 and 36-21.1-06 of the North Dakota Century Code, relating to the
4 abandonment and exposure of animals.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 36-21.1-01 of the 1999 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **36-21.1-01. Definitions.** In this chapter, unless the context or subject matter otherwise
9 requires:

- 10 1. "Abandoned animal" means an animal that is or reasonably appears to have been
11 deserted by its owner or keeper. The term may include an animal that is running
12 loose on property other than that of its owner or the owner's agent if the animal
13 bears no identification indicating the owner or the owner's agent and the owner or
14 owner's agent is not known to the sheriff, police officer, licensed veterinarian, or
15 investigator taking custody of the animal under this chapter.
- 16 2. "Animal" includes every living animal except the human race.
- 17 ~~2.~~ 3. "Commissioner" means the agriculture commissioner ~~of agriculture~~.
- 18 ~~3.~~ 4. "Cruelty" or "torture" includes every act, omission, or neglect whereby unnecessary
19 or unjustifiable pain, suffering, or death is caused or permitted.
- 20 ~~4.~~ 5. "Investigator" means any person approved by the board to determine whether
21 there has been a violation of this chapter.

22 **SECTION 2. AMENDMENT.** Section 36-21.1-06 of the 1999 Supplement to the North
23 Dakota Century Code is amended and reenacted as follows:

24 **36-21.1-06. Exposure of animals - Authority of officers.**

- 1 1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody
2 of; and care for any animal ~~found abandoned~~, unjustifiably exposed to cold or
3 inclement weather; or not properly fed and watered. Any sheriff or police officer
4 may use reasonable means to enter a motor vehicle and remove an animal that
5 has been left in the vehicle in violation of section 36-21.1-03.1.
- 6 2. A sheriff, police officer, licensed veterinarian, or investigator may care for the
7 animal until it is redeemed by the owner or authorized agent of the owner and
8 when necessary may deliver the animal to another person or facility to be
9 sheltered, cared for, and furnished suitable food and drink.
- 10 3. ~~In all cases~~ If the owner, if or the owner's agent is known, the individual must be
11 immediately notified, ~~or if~~. If the owner or the owner's agent is unknown, notice
12 must be given by publication in the manner prescribed by law. ~~Such~~ The notice
13 must inform the owner or the owner's agent that ~~such the~~ animal may be sold, or
14 otherwise disposed of, pursuant to court order if the animal is not redeemed within
15 five days ~~after receiving~~ from the date of the notice ~~or after publication~~.
- 16 2. 4. The sheriff, police officer, licensed veterinarian, investigator, or whoever has
17 custody of the animal has a lien ~~thereon~~, on the animal and that lien is superior to
18 any other claim or lien, for ~~its~~ the animal's care and keeping, the reasonable value
19 of the food and drink furnished, and the expenses of notifying the owner or the
20 owner's agent. If ~~such the~~ lien is not discharged and satisfied by the owner or the
21 owner's agent within five days after receipt of the notice, the person holding ~~such~~
22 the claim may apply to the district court for an order to sell ~~such the~~ animal to and
23 discharge ~~such the~~ lien.
- 24 5. Upon order of the court, the animal ~~must~~ may be sold at a public market to pay the
25 charges for its keeping ~~the same~~, and the title to the animal passes by the sale.
- 26 6. The court may award costs and reasonable attorney's fees to the person bringing
27 the action to enforce the lien, ~~and the remainder, if any, must be paid over to the~~
28 owner, if known, or if the owner is not known, the remainder must be deposited in
29 the county general fund. ~~If no purchaser is found, the animal, at the discretion of~~
30 the commissioner, ~~may be offered~~ arrange for the adoption of the animal, or
31 disposed of consistent with this chapter or with any other provision of law arrange

1 for the destruction and disposal of the animal if no market exists for the animal or if
2 the animal is a companion animal.

3 7. If the animal is sold, the lienholder is entitled to the proceeds of the sale to the
4 extent of the lien and the remainder, if any, must be paid over to the owner or the
5 owner's agent, if known. If the owner or the owner's agent is not known, the
6 remainder must be deposited in the county general fund. If no purchaser is found,
7 the animal, at the discretion of the commissioner, may be offered for adoption or
8 disposed of consistent with the law.

9 8. Before the animal is returned to its owner, the court shall determine whether the
10 owner or the owner's agent can provide adequate care for the animal. The court
11 has ten days within which to make this determination. The owner shall pay the
12 cost of taking the animal into custody before the animal is released to the owner or
13 the owner's agent.

14 **SECTION 3.** A new section to chapter 36-21.1 of the North Dakota Century Code is
15 created and enacted as follows:

16 **Abandoned animals - Assumption of custody.**

17 1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of
18 and care for any animal found abandoned. The individual taking custody shall take
19 reasonable steps to determine the ownership of the abandoned animal.

20 2. A sheriff, police officer, licensed veterinarian, or investigator may care for the
21 animal until the animal is redeemed by the owner or the owner's agent or may
22 deliver the animal to another person or facility to be sheltered, cared for, and
23 furnished suitable food and drink.

24 3. Notice must be given by publication in the official newspaper of the jurisdiction.
25 The notice must provide that the animal may be sold, placed for adoption, or
26 otherwise disposed of if the animal is not redeemed within five days from the date
27 of the notice.

28 4. The person having custody of the animal has a lien on the animal for the animal's
29 care and keeping, the reasonable value of the food and drink furnished, and the
30 expenses of notifying the owner or the owner's agent. The lien is superior to any
31 other claim or lien. If the lien is not discharged and satisfied by the owner or the

1 owner's agent within five days after publication of the notice, the person holding
2 the claim may sell the animal and discharge the lien.

3 5. The court may award reasonable attorney's fees to the person bringing the action
4 to enforce the lien and may award costs, which include the costs of arranging for
5 the adoption of the animal or the costs of the destruction and disposal of the
6 animal.

7 6. If the animal is sold, the lienholder is entitled to the proceeds of the sale to the
8 extent of the lien and the remainder, if any, must be deposited in the county
9 general fund.

10 **SECTION 4.** A new section to chapter 36-21.1 of the North Dakota Century Code is
11 created and enacted as follows:

12 **Assumption of custody - Immunity from liability.** Any sheriff, police officer, licensed
13 veterinarian, investigator, or person who has custody of an animal under this chapter and who
14 is acting in an official or professional capacity and making a good-faith effort to comply with this
15 chapter is immune from any civil or criminal liability for acts taken or omitted while attempting to
16 comply with this chapter.

17 **SECTION 5.** A new section to chapter 36-21.1 of the North Dakota Century Code is
18 created and enacted as follows:

19 **Applicability of chapter.** This chapter does not apply to estrays covered under
20 chapter 36-22.