

## HOUSE BILL No. 2698

By Committee on Commerce, Labor and Economic Development

Requested by Jason Watkins on behalf of Sedgwick County

2-4

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AN ACT concerning counties; relating to seizures of animals; providing for permanent seizures of animals in instances when the owner violates county resolutions; authorizing judges of competent jurisdiction to order such seizures; amending K.S.A. 19-101d and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. (a) If the owner of an animal is found guilty by a court of competent jurisdiction of violating any resolution passed by the board of county commissioners regarding animal care, custody or control, then, if authorized by a resolution, and in addition to any other penalties imposed, such court may order that such animal not be returned to or remain with such owner of such animal, if the court finds that such animal:

(1) Displayed behaviors that present a substantial threat to public health, safety or welfare;

(2) would in the future be subjected to treatment or actions by the owner in violation of any resolutions regarding care, custody or control of such animal; or

(3) is an animal prohibited to be kept within the county pursuant to a county resolution.

(b) If, as provided in subsection (a), the court finds that an animal should not be returned to or remain with the owner of such animal, such animal may be ordered to be disposed of in the manner provided by resolution of the board of county commissioners and ordered by the court.

(c) As used in this section:

(1) "Animal" means any vertebrate or invertebrate organism of the kingdom animalia, such as, but not limited to, dogs, cats, nonhuman primates, rabbits and any mammal of any size, fowl such as chickens, ducks, geese, turkeys or pigeons and any other kind of bird, reptiles, fish or bees. "Animal" includes any such animal whether tamed or domesticated or untamed or held in captivity. "Animal" does not include livestock as defined in K.S.A. 47-120(b), and amendments thereto.

(2) "Dog" means any animal that is wholly or in part of the species *canis familiaris*.

(3) "Cat" means an animal that is wholly or in part of the species *felis*

1 domesticus.

2 (4) "Owner" means any person who possesses, harbors, keeps, feeds,  
3 shelters, maintains, offers refuge or asylum to any animal or who professes  
4 to keeping, owning or harboring of such animal. Any person who signs a  
5 receipt as owner, keeper or harbinger for the return of an animal from any  
6 shelter or animal holding facility, shall be presumed to be the owner of  
7 such animal. A parent or legal guardian shall be deemed to be an owner of  
8 animals owned, kept or harbored upon their premises by minor children  
9 who are less than 18 years of age. "Owner" includes any person who  
10 exercises control over or is in possession of any such animal.

11 (d) Nothing in this section shall be construed to limit the authority of  
12 the board of county commissioners to engage in any other method of  
13 enforcement of resolutions available under the law.

14 Sec. 2. K.S.A. 19-101d is hereby amended to read as follows: 19-  
15 101d. (a) (1) The board of county commissioners of any county shall have  
16 the power to enforce all resolutions passed pursuant to county home rule  
17 powers, as designated by K.S.A. 19-101c, and amendments thereto.  
18 Resolutions may be enforced by enjoining violations, by prescribing  
19 penalties for violations by fine, by confinement in the county jail or by  
20 both fine and confinement *or as otherwise provided by section 1, and*  
21 *amendments thereto*. Unless otherwise provided by the resolution that  
22 defines and makes punishable the violation of such resolution, the penalty  
23 imposed shall be in accordance with the penalties established by law for  
24 conviction of a class C misdemeanor. In no event shall the penalty  
25 imposed for the violation of a resolution exceed the penalties established  
26 by law for conviction of a class B misdemeanor.

27 (2) Prosecution for any violation shall be commenced in the district  
28 court in the name of the county and, except as provided in subsection (b),  
29 shall be conducted in the manner provided by law for the prosecution of  
30 misdemeanor violations of state laws. Writs and process necessary for the  
31 prosecution of such violations shall be in the form prescribed by the judge  
32 or judges of the courts vested with jurisdiction of such violations by this  
33 act, and shall be substantially in the form of writs and process issued for  
34 the prosecution of misdemeanor violations of state laws. Each county shall  
35 provide all necessary supplies, forms and records at its own expense.

36 (b) (1) In addition to all other procedures authorized for the  
37 enforcement of county codes and resolutions, in Crawford, Douglas,  
38 Franklin, Jefferson, Johnson, Leavenworth, Miami, Riley, Sedgwick,  
39 Shawnee and Wyandotte counties, the prosecution for violation of codes  
40 and resolutions adopted by the board of county commissioners may be  
41 commenced in the district court in the name of the county and may be  
42 conducted, except as otherwise provided in this section, in the manner  
43 provided for and in accordance with the provisions of the code for the

1 enforcement of county codes and resolutions.

2 (2) The board of county commissioners of any county which has not  
3 provided for the enforcement of county codes and resolutions in  
4 accordance with provisions of the code for enforcement of county codes  
5 and resolutions on or before July 1, 2007, and which desires to utilize the  
6 provisions of the code for enforcement of county codes and resolutions set  
7 forth in article 47 of chapter 19 of the Kansas Statutes Annotated, and  
8 amendments thereto, shall cause a notice of its intention to utilize the  
9 provisions of the code for enforcement of county codes and resolutions set  
10 forth in article 47 of chapter 19 of the Kansas Statutes Annotated, and  
11 amendments thereto, be published in the official newspaper of the county.  
12 If within 30 days next following the date of the publication of such notice  
13 a petition, signed by electors equal in number to not less than 5% of the  
14 electors of the county, requesting an election thereon, shall be filed in the  
15 office of the county election officer, no utilization of the provisions of the  
16 code for enforcement of county codes and resolutions set forth in article 47  
17 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto,  
18 may be made without such proposition having first been submitted to and  
19 having been approved by a majority of the electors of the county voting at  
20 an election called and held thereon. Any election shall be called, noticed  
21 and held in the manner provided by K.S.A. 10-120, and amendments  
22 thereto.

23 (3) For the purposes of aiding in the enforcement of county codes and  
24 resolutions, the board of county commissioners may employ or appoint  
25 code enforcement officers for the county who shall have power to sign,  
26 issue and execute notices to appear and uniform citations or uniform  
27 complaints and notices to appear, as provided in the appendix of forms of  
28 the code contained in this act to enforce violations of county codes and  
29 resolutions, but shall have no power to issue warrants or make arrests. All  
30 warrants shall be issued and arrests made by law enforcement officers  
31 pursuant to and in the manner provided in the Kansas criminal code.

32 (4) The board of county commissioners may employ or appoint  
33 attorneys for the purpose of prosecuting actions for the enforcement of  
34 county codes and resolutions. The attorneys shall have the duties, powers  
35 and authorities provided by the board that are necessary to prosecute  
36 actions under the code.

37 (5) All costs for the enforcement and prosecution of violations of  
38 county codes and resolutions, except for compensation and expenses of the  
39 district court judge, shall be paid from the revenues of the county. The  
40 board of county commissioners may establish a special law enforcement  
41 fund for the purpose of paying for the costs of code enforcement within the  
42 county.

43 (c) Notwithstanding the provisions of subsection (b), any action

1 commenced in the district court for the enforcement of county codes and  
2 resolutions, in which a person may be subject to detention or arrest or in  
3 which an accused person, if found guilty, would or might be deprived of  
4 the person's liberty, shall be conducted in the manner provided by law for  
5 the prosecution of misdemeanor violations of state laws under the Kansas  
6 code of criminal procedure and not under the code for the enforcement of  
7 county codes and resolutions.

8 Sec. 3. K.S.A. 19-101d is hereby repealed.

9 Sec. 4. This act shall take effect and be in force from and after its  
10 publication in the statute book.