

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

139M0022

## HOUSE BILL NO. 1181

Introduced by: Representatives Jerke, Boomgarden, Davis, Deadrick, Dykstra, Fryslie, Hennies, Hunhoff, Jensen, Koistinen, Kraus, Putnam, and Rave and Senators Koskan, Abdallah, and Broderick

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding humane societies.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 40-2-1 be amended to read as follows:

4 40-2-1. Any three or more citizens of this state ~~who have heretofore or who shall hereafter~~  
5 ~~incorporate as a body corporate~~ incorporated under the general laws for incorporation in this  
6 state, for the purpose of preventing cruelty to animals, may avail themselves of the privileges  
7 of this chapter through an animal control officer subject to the limitations in sections 2 and 3  
8 of this Act. The board of county commissioners in each county may grant authority to exercise  
9 the privileges and authority granted by this section to one or more qualified corporations for a  
10 period of up to three years based upon ability to fulfill the purposes of this chapter.

11 Section 2. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 The trustees of a humane society incorporated pursuant to § 40-2-1 may appoint society  
14 members to act as animal control officers. The appointment shall be in writing. The appointment  
15 is effective in a particular county only if an appointee obtains written authorization from a



1 circuit court judge having jurisdiction in the county in which the appointee seeks to enforce this  
2 chapter or chapter 40-1. To obtain judicial authorization, an appointee seeking judicial  
3 authorization shall provide evidence satisfactory to the judge that the appointee has experience,  
4 education, or training that has prepared the appointee to assume the powers granted to animal  
5 control officers pursuant to section 3 of this Act. The trustees shall review appointments every  
6 three years and may revoke an appointment at any time by filing a certified revocation with the  
7 circuit court that approved the appointment. Any authorization may not exceed three years or  
8 trustee termination, whichever occurs first. To qualify for reappointment, the officer shall satisfy  
9 the court that the officer has sufficient experience, education, or training to exercise the powers  
10 granted to animal control officers pursuant to section 3 of this Act.

11 Section 3. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Any law enforcement agency or any animal care and control agency may enforce the  
14 provisions of this chapter or chapter 40-1. An animal care and control agency may enforce the  
15 provisions of this chapter or chapter 40-1 in a county or municipality only if the legislative  
16 authority of the county or municipality has entered into a contract with the agency to enforce the  
17 provisions of this chapter and chapter 40-1. An animal control officer enforcing this chapter or  
18 chapter 40-1 shall comply with the same constitutional and statutory restrictions concerning the  
19 execution of police powers imposed on a law enforcement officer who enforces this chapter,  
20 chapter 40-1, and other criminal laws. An animal control officer has the following enforcement  
21 powers when enforcing this chapter:

- 22 (1) The power to issue citations based on probable cause to offenders for misdemeanor  
23 and felony violations of this chapter or chapter 40-1;
- 24 (2) The power to cause a law enforcement officer to arrest and take into custody any

1 person the animal control officer has probable cause to believe has committed or is  
2 committing a violation of this chapter or chapter 40-1. An animal control officer may  
3 make an oral complaint to a prosecuting attorney or a law enforcement officer to  
4 initiate an arrest. The animal control officer causing the arrest shall file with the  
5 arresting agency a written complaint within twenty-four hours of the arrest, excluding  
6 Sundays and legal holidays, stating the alleged act or acts constituting a violation;

7 (3) The power to carry protective devices, other than firearms, for personal protection;

8 (4) The power to prepare affidavits in support of search warrants and to execute search  
9 warrants when accompanied by law enforcement officers to investigate violations of  
10 this chapter or chapter 40-1, and to seize evidence of those violations.

11 Upon the request of an animal control officer who has probable cause to believe that a  
12 person has violated this chapter or chapter 40-1, a law enforcement officer may arrest the  
13 alleged offender.

14 Section 4. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 For the purposes of this chapter and chapter 40-1, an animal care and control agency is any  
17 municipality or county animal control agency or authority authorized to enforce municipality  
18 or county ordinances regulating the care, control, licensing, or treatment of animals within the  
19 municipality or county, and any corporation organized under § 40-2-1 that contracts with a  
20 municipality or county to enforce the municipality or county ordinances governing animal care  
21 and control.

22 Section 5. That chapter 40-2 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 For the purposes of this chapter and chapter 40-1, an animal control officer is any person

1 employed, contracted, or appointed pursuant to section 3 of this Act by an animal care and  
2 control agency or humane society to aid in the enforcement of ordinances or laws regulating the  
3 care and control of animals. The term, animal control officer, includes a humane officer. A  
4 humane officer is any person employed, contracted, or appointed by an animal care and control  
5 agency or humane society.

6 Section 6. That § 40-2-3 be repealed.

7 ~~40-2-3. Any member, officer, or agent of any such society so incorporated who shall by the~~  
8 ~~secretary of such society be duly authorized in writing and confirmed by the board of directors,~~  
9 ~~and if within a municipal corporation, approved by the mayor or president of the board of such~~  
10 ~~municipality, and if within a county beyond the limits of a municipal corporation, approved by~~  
11 ~~the circuit judge and sworn in the same manner as are peace officers, may interfere to prevent~~  
12 ~~the inhumane treatment of any animal pursuant to § 40-2-4 and may use such force as may be~~  
13 ~~necessary to prevent such inhumane treatment and to that end may summon to his aid any peace~~  
14 ~~officer. He may make arrests for the violation of any of the provisions of chapter 40-1, in~~  
15 ~~accordance with the provisions of § 40-2-4 in the same manner as other peace officers. Such~~  
16 ~~member, officer, or agent shall, when making such arrest, exhibit the badge adopted by the~~  
17 ~~society of which he is a member, officer, or agent.~~