

1982 WL 189139 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 18, 1982

*1 Ms. Kathy Alford
1549 W. Lakewood Drive
Rock Hill, South Carolina 29730

Dear Ms. Alford:

Thank you for your letter of January 11, 1982, concerning [Section 47-1-40 of the Code of Laws, 1976](#), relating to animals. This statute prohibits the ill-treatment of animals generally and requires that an animal not be deprived of 'necessary sustenance or shelter,' among other prohibitions.

This, in my opinion, would be applicable to dogs, as well as other animals, irrespective of whether they are leased or whether they are running free. The law does not prescribe that sustenance or shelter 'be adequate' but that it be that which is 'necessary.' A court would probably construe the two terms synonymously, but there do not appear to be any decisions of the Supreme Court on this issue decided in this State. Consequently, the matter would have to be left in the hands of a court as to whether the sustenance furnished was sufficient to constitute 'necessary' sustenance. The same conclusions are applicable with respect to the type of shelter that may be furnished, and the circumstances and facts of a specific case will be left for ultimate decision by a judge or jury. I think that you are correct in your assumption that the shelter furnished must be provided by the person owning the animal or having custody of it.

There is, as you note, a special law relating to York County. In addition to this, counties have specific authority to enact ordinances and regulations and to prescribe penalties for their violation, specifically with respect to dogs and other canines. I would suggest that the ordinances of the county, if promulgated, be relied upon rather than the special law relating to York County.

Very truly yours,

Daniel R. McLeod
Attorney General

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