

House Bill 423

By: Representatives Vance of the 133rd, Collins of the 71st, Hitchens of the 161st, Lumsden of the 12th, Powell of the 33rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia
2 Annotated, relating to general provisions relative to dangerous instrumentalities and
3 practices, so as to revise provisions relating to harming a law enforcement animal; to provide
4 for the offense of interfering with a public safety animal; to provide for definitions; to
5 provide for punishment; to provide for applicability; to provide for restitution; to provide for
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
10 relating to general provisions relative to dangerous instrumentalities and practices, is
11 amended by revising Code Section 16-11-107, relating to harming a law enforcement animal,
12 as follows:

13 "16-11-107.

14 (a) As used in this Code section, the term:

15 (1) ~~'Accelerant detection dog' means a dog trained to detect hydrocarbon substances.~~

16 (2) ~~'Bomb detection dog' means a dog trained to locate bombs or explosives by scent.~~

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- 17 ~~(2.1) 'Dangerous weapon' shall have the same meaning as provided for in Code Section~~
18 ~~16-11-121.~~
- 19 ~~(2.2) 'Firearm' means any handgun, rifle, shotgun, stun gun, taser, or dangerous weapon.~~
- 20 ~~(3) 'Firearms detection dog' means a dog trained to locate firearms by scent.~~
- 21 ~~(3.1) 'Knowingly' means having knowledge that an animal is a law enforcement animal.~~
- 22 ~~(3.2) 'Law enforcement animal' means a police dog, police horse, or any other animal~~
23 ~~trained to support a peace officer, fire department, or the state fire marshal in~~
24 ~~performance of law enforcement duties.~~
- 25 ~~(4) 'Narcotic detection dog' means a dog trained to locate narcotics by scent.~~
- 26 ~~(5) 'Narcotics' means any controlled substance as defined in paragraph (4) of Code~~
27 ~~Section 16-13-21 and shall include marijuana as defined by paragraph (16) of Code~~
28 ~~Section 16-13-21.~~
- 29 ~~(6) 'Patrol dog' means a dog trained to protect a peace officer and to apprehend or hold~~
30 ~~without excessive force a person in violation of the criminal statutes of this state.~~
- 31 ~~(6.1) 'Performance of its duties' means performing law enforcement, fire department, or~~
32 ~~state fire marshal duties as trained.~~
- 33 ~~(7) 'Police dog' means a bomb detection dog, a firearms detection dog, a narcotic~~
34 ~~detection dog, a patrol dog, an accelerant detection dog, or a tracking dog used by a law~~
35 ~~enforcement agency. Such term also means a search and rescue dog.~~
- 36 ~~(8) 'Police horse' means a horse trained to transport, carry, or be ridden by a law~~
37 ~~enforcement officer and used by a law enforcement agency.~~
- 38 ~~(8.1) 'Search and rescue dog' means any dog that is owned or the services of which are~~
39 ~~employed by a fire department or the state fire marshal for the principal purpose of aiding~~
40 ~~in the detection of missing persons, including but not limited to persons who are lost, who~~
41 ~~are trapped under debris as a result of a natural or manmade disaster, or who are~~
42 ~~drowning victims.~~

43 ~~(9) 'Tracking dog' means a dog trained to track and find a missing person, escaped~~
44 ~~inmate, or fleeing felon.~~

45 (1) 'Containment area' means any area used to hold a public safety animal regardless of
46 whether such animal is being utilized by a handler during the time of confinement,
47 including, but not limited to, a kennel, car, trailer, tent, staging area, stable, paddock,
48 tie-out, or fenced area or pasture.

49 (2) 'Handler' means any person employed by or performing services on behalf of an
50 agency or authority of this state or an agency or authority of a political subdivision of this
51 state and who is trained to use a public safety animal.

52 (3) 'Harasses' means engages in any conduct directed toward a public safety animal that
53 is intended to impede or interfere with the animal's performance of its duties or disturb
54 the health and well-being of the animal.

55 (4) 'Public safety animal' means a dog or horse owned by or performing services on
56 behalf of an agency or authority of this state or an agency or authority of a political
57 subdivision of this state and that is specially trained or in the process of being specially
58 trained to aid in the detection of criminal activity; enforcement of laws; apprehension of
59 criminal offenders; provision of corrections, jail, or prison security; investigation of fires
60 or explosions; or location of lost or missing persons, victims of disasters, or human
61 remains.

62 ~~(b)(1) A person commits the offense of harming a law enforcement interfering with a~~
63 ~~public safety animal in the ~~fourth~~ third degree when he or she knowingly ~~and~~~~
64 ~~intentionally causes physical harm to such law enforcement animal while such law~~
65 ~~enforcement animal is in performance of its duties or because of such law enforcement~~
66 ~~animal's performance of its duties or recklessly:~~

67 (A) Harasses or strikes a public safety animal;

68 (B) Obstructs or hinders a public safety animal or the handler of a public safety animal
69 in a manner that:

70 (i) Inhibits or restricts the handler's control of the public safety animal; or
71 (ii) Deprives the handler of control of the public safety animal;
72 (C) Releases a public safety animal from its containment area; or
73 (D) Enters the containment area of a public safety animal without the consent of the
74 handler, including placing food or any other object or substance into the containment
75 area.

76 (2) Any person convicted of a violation of this subsection shall be guilty of a
77 misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be
78 punished by imprisonment not to exceed 12 months, a fine not to exceed \$5,000.00, or
79 both and shall be punished as provided in Code Section 17-10-3.

80 (c)(1) A person commits the offense of harming a law enforcement interfering with a
81 public safety animal in the third second degree when he or she knowingly and
82 intentionally and with a deadly weapon causes, or with any object, device, instrument,
83 or body part which, when used offensively against such law enforcement animal, is likely
84 to or actually does cause, serious physical injury to such law enforcement animal while
85 such law enforcement animal is in performance of its duties or because of such law
86 enforcement animal's performance of its duties commits an act that causes or is likely to
87 cause physical harm to a public safety animal.

88 (2) Any person convicted of a violation of this subsection shall be guilty of a
89 misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be
90 punished by imprisonment for not less than six nor more than 12 months, a fine not to
91 exceed \$5,000.00, or both shall be punished as provided in Code Section 17-10-4.

92 (d)(1) A person commits the offense of harming a law enforcement interfering with a
93 public safety animal in the second first degree when he or she knowingly and
94 intentionally shoots a law enforcement animal with a firearm or causes debilitating
95 physical injury to a law enforcement animal while such law enforcement animal is in
96 performance of its duties or because of such law enforcement animal's performance of

97 ~~its duties~~ commits an act that causes the death of a public safety animal or injures or is
98 likely to injure a public safety animal in a manner that materially affects the ability of the
99 animal to perform as a public safety animal.

100 (2) Any person convicted of a violation of this subsection shall be guilty of a felony and,
101 upon conviction thereof, shall be punished by imprisonment for not less than one nor
102 more than five years, a fine not to exceed \$25,000.00, or both; ~~provided, however, that~~
103 when a violation of this subsection causes the death of a public safety animal or results
104 in an injury that permanently affects the ability of an animal to perform as a public safety
105 animal such person shall be punished by imprisonment for not less than 18 months nor
106 more than ten years, a fine not to exceed \$50,000.00, or both, and the first 18 months of
107 such sentence shall not be suspended, probated, deferred, or withheld by a sentencing
108 court.

109 ~~(e) A person commits the offense of harming a law enforcement animal in the first degree~~
110 ~~when he or she knowingly and intentionally causes the death of a law enforcement animal~~
111 ~~while such law enforcement animal is in performance of its duties or because of such law~~
112 ~~enforcement animal's performance of its duties. Any person convicted of a violation of this~~
113 ~~subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by~~
114 ~~imprisonment for not less than 18 months nor more than five years, a fine not to exceed~~
115 ~~\$50,000.00, or both.~~

116 (e)(1) The provisions of this Code section shall apply regardless of whether a public
117 safety animal is engaged in the performance of its duties.

118 (2) The provisions of this Code section shall apply to the owner or person in physical
119 control of another animal who, intentionally or without justification or excuse, fails to
120 restrain such animal from attacking a public safety animal that such person knows or
121 should know to be a public safety animal.

122 (3) When a public safety animal is within a containment area and not in the immediate
123 presence of its handler, this Code section shall apply only to a person who knows or
124 should know that an animal is a public safety animal at the time of the offense.

125 (f) Each violation of this Code section shall constitute a separate offense and shall not
126 merge with any other offense.

127 ~~(f)(g)~~ In addition to any other penalty provided for under this Code section, any person
128 convicted of a violation under this Code section shall pay restitution to the law enforcement
129 agency, fire department, or the state fire marshal which is the owner of, or which owned,
130 such law enforcement the court shall order the defendant to make restitution pursuant to
131 Article 1 of Chapter 14 of Title 17 to the owner of a public safety animal in the amount of
132 associated veterinary expenses incurred in the treatment of such law enforcement animal
133 pursuant to Article 1 of Chapter 14 of Title 17; provided, however, that if such law
134 enforcement animal public safety animal. Notwithstanding Code Section 17-14-2 to the
135 contrary, restitution when a public safety animal has died or is no longer able to engage in
136 performance of its duties as a result of a violation of this Code section, the amount paid in
137 restitution shall additionally include the amount of the actual replacement value of the law
138 enforcement public safety animal, which shall include the value of an animal to replace the
139 law enforcement public safety animal and all costs associated with training such animal and
140 its handler or handlers.

141 ~~(g)(h)~~ Nothing in this Code section shall prohibit the killing or euthanasia of a law
142 enforcement public safety animal for humane purposes.

143 ~~(h)(i)~~ Nothing in this Code section shall prohibit the defense of a person against a law
144 enforcement public safety animal that attacks such person without or in spite of commands
145 given by its handler.

146 ~~(i)(j)~~ The Division of Forensic Sciences of the Georgia Bureau of Investigation shall
147 perform forensic pathology services upon any law enforcement animal whose death
148 occurred while in performance of its duties or because of such law enforcement animal's

149 ~~performance of its duties~~ public safety animal where there is probable cause to believe that
150 the animal died as a result of a violation of this Code section."

151 **SECTION 2.**

152 All laws and parts of laws in conflict with this Act are repealed.