

Senate Bill 155

By: Senators Kirkpatrick of the 32nd, Albers of the 56th, Robertson of the 29th, Strickland of the 17th, Still of the 48th and others

AS PASSED SENATE

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 offenses of interfering with or harming a public safety animal or search and rescue
5 animal; to provide for definitions; to provide for punishment; to provide for applicability; to
6 provide for restitution; to add a short title; to provide for related matters; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Cruelty to K-9s Act."

11 **SECTION 2.**

12 Part 1 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
13 relating to general provisions relative to dangerous instrumentalities and practices, is

14 amended by revising Code Section 16-11-107, relating to harming a law enforcement animal,
15 as follows:

16 "16-11-107.

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

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

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

20 (2.1) ~~'Dangerous weapon' shall have the same meaning as provided for in Code Section~~
21 ~~16-11-121.~~

22 (2.2) ~~'Firearm' means any handgun, rifle, shotgun, stun gun, taser, or dangerous weapon.~~

23 (3) ~~'Firearms detection dog' means a dog trained to locate firearms by scent.~~

24 (3.1) ~~'Knowingly' means having knowledge that an animal is a law enforcement animal.~~

25 (3.2) ~~'Law enforcement animal' means a police dog, police horse, or any other animal~~
26 ~~trained to support a peace officer, fire department, or the state fire marshal in~~
27 ~~performance of law enforcement duties.~~

28 (4) ~~'Narcotic detection dog' means a dog trained to locate narcotics by scent.~~

29 (5) ~~'Narcotics' means any controlled substance as defined in paragraph (4) of Code~~
30 ~~Section 16-13-21 and shall include marijuana as defined by paragraph (16) of Code~~
31 ~~Section 16-13-21.~~

32 (6) ~~'Patrol dog' means a dog trained to protect a peace officer and to apprehend or hold~~
33 ~~without excessive force a person in violation of the criminal statutes of this state.~~

34 (6.1) ~~'Performance of its duties' means performing law enforcement, fire department, or~~
35 ~~state fire marshal duties as trained.~~

36 (7) ~~'Police dog' means a bomb detection dog, a firearms detection dog, a narcotic~~
37 ~~detection dog, a patrol dog, an accelerant detection dog, or a tracking dog used by a law~~
38 ~~enforcement agency. Such term also means a search and rescue dog.~~

39 (8) ~~'Police horse' means a horse trained to transport, carry, or be ridden by a law~~
40 ~~enforcement officer and used by a law enforcement agency.~~

41 ~~(8.1) 'Search and rescue dog' means any dog that is owned or the services of which are~~
42 ~~employed by a fire department or the state fire marshal for the principal purpose of aiding~~
43 ~~in the detection of missing persons, including but not limited to persons who are lost, who~~
44 ~~are trapped under debris as a result of a natural or manmade disaster, or who are~~
45 ~~drowning victims.~~

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

48 (1) 'Public safety animal' means any animal that is specially trained and may be used to
49 assist a public safety officer, as such term defined in Code Section 16-5-19, in the
50 performance of the officer's official duties.

51 (2) 'Search and rescue animal' means any animal that is specially trained and may be
52 used to assist in a search and rescue operation or to search for human remains.

53 ~~(b)(1) A person commits the offense of harming a law enforcement animal in the fourth~~
54 ~~degree when he or she knowingly and intentionally causes physical harm to such law~~
55 ~~enforcement animal while such law enforcement animal is in performance of its duties~~
56 ~~or because of such law enforcement animal's performance of its duties interfering with~~
57 ~~a public safety animal or search and rescue animal when he or she knows or should have~~
58 ~~known that an animal is a public safety animal or search and rescue animal and~~
59 ~~intentionally commits, conspires, or attempts to commit an act that:~~

60 ~~(A) Frightens, taunts, agitates, harasses, or tampers with the animal; or~~

61 ~~(B) Delays, obstructs, or hinders the animal in the performance of its duty as a public~~
62 ~~safety animal or search and rescue animal.~~

63 (2) Any person convicted of a violation of this subsection shall be guilty of a
64 misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be
65 punished by imprisonment not to exceed 12 months, a fine not to exceed \$5,000.00
66 \$1,000.00, or both.

67 (c)(1) A person commits the offense of ~~harming a law enforcement animal in the third~~
 68 ~~degree when he or she knowingly and intentionally and with a deadly weapon causes, or~~
 69 ~~with any object, device, instrument, or body part which, when used offensively against~~
 70 ~~such law enforcement animal, is likely to or actually does cause, serious physical injury~~
 71 ~~to such law enforcement animal while such law enforcement animal is in performance~~
 72 ~~of its duties or because of such law enforcement animal's performance of its duties~~ public
 73 safety animal or search and rescue animal when he or she knows or should have known
 74 that an animal is a public safety animal or search and rescue animal and intentionally
 75 commits, conspires, or attempts to commit an act that causes or is likely to cause physical
 76 harm, pain, or suffering to a public safety animal or search and rescue animal.

77 (2) Any person convicted of a violation of this subsection shall be guilty of a
 78 misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be
 79 punished by imprisonment for not less than six nor more than 12 months, a fine not to
 80 exceed \$5,000.00, or both.

81 (d)(1) A person commits the offense of ~~harming a law enforcement animal in the second~~
 82 ~~degree when he or she knowingly and intentionally shoots a law enforcement animal with~~
 83 ~~a firearm or causes debilitating physical injury to a law enforcement animal while such~~
 84 ~~law enforcement animal is in performance of its duties or because of such law~~
 85 ~~enforcement animal's performance of its duties~~ aggravated harming of a public safety
 86 animal or search and rescue animal when he or she knows or should have known that an
 87 animal is a public safety animal or search and rescue animal and when he or she
 88 intentionally commits, conspires, or attempts to commit an act that:

89 (A) Causes the death of the animal; or

90 (B) Injures the animal in a manner that materially affects its ability to perform as a
 91 public safety animal or search and rescue animal.

92 (2) Any person convicted of a violation of this subsection shall be guilty of a felony and,
 93 upon conviction thereof, shall be punished by imprisonment for not less than ~~one~~ two nor

94 more than ~~five~~ ten years, a fine not to exceed ~~\$25,000.00~~ \$50,000.00, or both, and the
95 first two years of such sentence shall not be suspended, probated, deferred, or withheld
96 by a sentencing court; provided, however, that in the court's discretion, the court may
97 depart from such mandatory minimum sentence when the prosecuting attorney and
98 defendant have agreed to a sentence that is below such mandatory minimum.

99 ~~(e)~~ A person commits the offense of harming a law enforcement animal in the first degree
100 ~~when he or she knowingly and intentionally causes the death of a law enforcement animal~~
101 ~~while such law enforcement animal is in performance of its duties or because of such law~~
102 ~~enforcement animal's performance of its duties. Any person convicted of a violation of this~~
103 ~~subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by~~
104 ~~imprisonment for not less than 18 months nor more than five years, a fine not to exceed~~
105 ~~\$50,000.00, or both.~~

106 ~~(f)~~(e) In addition to any other penalty provided for under this Code section, any person
107 ~~convicted of a violation under this Code section shall pay restitution to the law enforcement~~
108 ~~agency, fire department, or the state fire marshal which is the owner of, or which owned,~~
109 ~~such law enforcement animal in the amount of associated~~ the court shall order the
110 defendant to make restitution pursuant to Article 1 of Chapter 14 of Title 17 to the owner
111 of a public safety animal or search and rescue animal for the costs of the veterinary
112 expenses incurred in the treatment of such law enforcement animal pursuant to Article 1
113 of Chapter 14 of Title 17; provided, however, that if such law enforcement animal died
114 animal and the costs of any restorative training necessary to enable the animal to resume
115 its duties. Notwithstanding Code Section 17-14-2 to the contrary, restitution when a public
116 safety animal or search and rescue animal dies or is no longer able to engage in
117 performance of its duties as a result of a violation of this Code section, ~~the amount paid in~~
118 ~~restitution~~ shall additionally include the amount of the actual replacement value of the law
119 ~~enforcement~~ public safety animal or search and rescue animal, which shall include the

120 value of an animal to replace the ~~law enforcement~~ public safety animal or search and rescue
121 animal and all costs associated with training such animal and its handler or handlers.

122 ~~(g)~~(f) Nothing in this Code section shall prohibit the killing or euthanasia of a ~~law~~
123 ~~enforcement~~ public safety animal or search and rescue animal for humane purposes.

124 ~~(h)~~(g) Nothing in this Code section shall prohibit the defense of a person against a ~~law~~
125 ~~enforcement~~ public safety animal or search and rescue animal that attacks such person
126 without or in spite of commands given by its handler.

127 ~~(i) The Division of Forensic Sciences of the Georgia Bureau of Investigation shall perform~~
128 ~~forensic pathology services upon any law enforcement animal whose death occurred while~~
129 ~~in performance of its duties or because of such law enforcement animal's performance of~~
130 ~~its duties."~~

131

SECTION 3.

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