

House Bill 1146

By: Representatives Levitas of the 82<sup>nd</sup>, Ramsey of the 72<sup>nd</sup>, Powell of the 171<sup>st</sup>, Willard of the 49<sup>th</sup>, Wilkinson of the 52<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to criminal offenses against public health and morals in general, so as to extensively  
3 revise provisions relating to criminal offenses involving cruelty to animals; to define terms;  
4 to revise the elements and definitions of offenses; to change provisions relating to criminal  
5 punishment; to provide for other related matters; to provide for an effective date and  
6 applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 1 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to  
10 criminal offenses against public health and morals in general, is amended by revising Code  
11 Section 16-12-4, relating to the crime of cruelty to animals, as follows:

12 "16-12-4.

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

14 (1) 'Animal' shall not include any fish nor shall such term include any pest that might be  
15 exterminated or removed from a business, residence, or other structure.

16 (2) 'Conviction' shall include pleas of guilty or nolo contendere or probation as a first  
17 offender pursuant to Article 3 of Chapter 8 of Title 42 and any conviction, plea of guilty  
18 or nolo contendere, or probation as a first offender for an offense under the laws of the  
19 United States or any of the several states that would constitute a violation of this Code  
20 section if committed in this state.

21 ~~(3) 'Willful neglect' means the intentional withholding of food and water required by an  
22 animal to prevent starvation or dehydration.~~

23 (3) 'Humane care' means, but is not limited to, making accessible adequate food and  
24 drinkable water and providing: sanitary shelter; ventilation and sufficient shade; adequate  
25 housing which offers protection from the weather and harsh temperatures that pose a

26 substantial risk of endangering the health or well-being of the animal; and routine and  
 27 emergency veterinary care when necessary.

28 (4) 'Proper confinement in a motor vehicle' means an owner or person shall not leave or  
 29 confine an animal in any unattended motor vehicle under conditions that endanger the  
 30 health or well-being of the animal due to heat, cold, lack of adequate ventilation, or lack  
 31 of food or water and that could reasonably be objectively expected to cause suffering by  
 32 the animal or disability or death of the animal.

33 (b) A person commits the offense of cruelty to animals when he or she causes death or  
 34 unjustifiable physical pain or suffering to any animal by ~~an act, an omission, or willful~~  
 35 ~~neglect. Any person convicted of a violation of this subsection shall be guilty of a~~  
 36 ~~misdemeanor; provided, however, that:~~

37 (1) Failing to provide humane care; or

38 (2) Failing to provide proper confinement in a motor vehicle.

39 ~~(c)~~ (c) Any person who is convicted of a second or subsequent violation of ~~this~~  
 40 (b) of this Code section shall be ~~punished by imprisonment not to exceed 12 months, a fine~~  
 41 ~~not to exceed \$5,000.00, or both; and (2) Any guilty of a misdemeanor; provided, however,~~  
 42 that any person who is convicted of a second or subsequent violation of this subsection (b)  
 43 of this Code section within five years, as measured from the dates of previous arrests for  
 44 which convictions were obtained to the date of the current arrest for which a conviction is  
 45 obtained, which results in the death of an animal shall be guilty of a misdemeanor of a high  
 46 and aggravated nature and shall be punished by imprisonment for not less than three  
 47 months ten days nor more than 12 months, a fine not to exceed \$10,000.00, or both, which  
 48 punishment shall not be suspended, probated, or withheld.

49 ~~(c)~~ (d) A person commits the offense of aggravated cruelty to animals when he or she  
 50 ~~knowingly and maliciously:~~

51 (1) Intentionally fails to provide humane care thereby causing the death of an animal;

52 (2) Intentionally causes death or physical harm to an animal by rendering a part of such  
 53 animal's body useless or by seriously disfiguring such animal; or

54 (3) Tortures an animal by infliction of or subjection to severe physical pain with the  
 55 intent to cause prolonged suffering or pain.

56 (e) A person convicted of the offense of aggravated cruelty to animals shall be punished  
 57 by imprisonment for not less than one nor more than five years, a fine not to exceed  
 58 ~~\$15,000.00~~ \$20,000.00, or both, provided that any person who is convicted of a second or  
 59 subsequent violation of ~~this~~ (d) of this Code section within five years, as  
 60 measured from the dates of previous arrests for which convictions were obtained to the date  
 61 of the current arrest for which a conviction is obtained, shall be punished by imprisonment

62 for not less than one nor more than ~~five~~ ten years, a fine not to exceed the amount provided  
63 by Code Section 17-10-8, or both.

64 ~~(d)~~(f) Before sentencing a defendant for any conviction under this Code section, the  
65 sentencing judge may require psychological evaluation of the offender and shall consider  
66 in this regard the entire criminal record of the offender.

67 ~~(e)~~(g) The provisions of this Code section shall ~~not~~ neither be construed as prohibiting  
68 conduct which is otherwise permitted under the laws of this state or of the United States,  
69 including, but not limited to, agricultural, animal husbandry, butchering, food processing,  
70 marketing, scientific, research, medical, zoological, exhibition, competitive, hunting,  
71 trapping, fishing, wildlife management, or pest control practices, or the authorized practice  
72 of veterinary medicine nor ~~to limit~~ as limiting in any way the authority or duty of the  
73 Department of Agriculture, Department of Natural Resources, any county board of health,  
74 any law enforcement officer, dog, animal, or rabies control officer, humane society,  
75 veterinarian, or private landowner protecting his or her property.

76 ~~(f)~~(h)(1) Nothing in this Code section shall be construed as prohibiting a person from:

77 (A) Defending his or her person or property, or the person or property of another, from  
78 injury or damage being caused by an animal reasonably believed to constitute an  
79 imminent threat; or

80 (B) Injuring or killing an animal reasonably believed to constitute ~~a~~ an imminent threat  
81 for or injury to persons or damage to any property, livestock, or poultry.

82 (2) The method used to injure or kill such animal pursuant to this subsection shall be  
83 designed to be as humane as is possible under the circumstances. A person who  
84 humanely injures or kills an animal under the circumstances indicated in this subsection  
85 shall incur no civil or criminal liability for such injury or death."

86 **SECTION 2.**

87 This Act shall become effective on July 1, 2010, and shall apply with respect to offenses  
88 committed on or after that date. Offenses committed prior to that date shall continue to be  
89 governed by prior law.

90 **SECTION 3.**

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