

House Bill 863

By: Representatives Golick of the 40<sup>th</sup>, Ramsey of the 72<sup>nd</sup>, Hamilton of the 24<sup>th</sup>, Dudgeon of the 25<sup>th</sup>, Pak of the 108<sup>th</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 general provisions relative to offenses against public health and morals, so as to  
3 change provisions relating to cruelty to animals and aggravated cruelty to animals; to provide  
4 for and change definitions; to clarify provisions relating to justification; to provide for related  
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

11 "16-12-4.

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

13 (1) 'Adequate care' includes, but is not limited to, adequate food, adequate water, sanitary  
14 conditions, adequate ventilation, adequate shelter, and veterinary care.

15 (2) 'Adequate food' means noncontaminated and nutritionally sufficient food consistent  
16 with the normal requirements and feeding habits of an animal's size, species, breed, age,  
17 and physical condition that is fed according to the species requirements, or as dictated by  
18 naturally occurring states of hibernation normal for the species, or as directed by a  
19 licensed veterinarian, and is sufficient in an amount and appropriate for the particular  
20 type of animal to prevent starvation and maintain the animal in a state of good health.

21 (3) 'Adequate shelter' means protection from the elements and weather suitable for an  
22 animal's size, species, breed, age, and physical condition so as to maintain the animal in  
23 a state of good health. Shelter for livestock shall include structures or natural features  
24 such as trees or topography. Such term shall not include any condition resulting from a  
25 customary and reasonable practice pursuant to farming or animal husbandry.

26 (4) 'Adequate ventilation' means fresh or filtered air sufficient to minimize drafts, odors,  
 27 and moisture condensation by either natural or mechanical means and sufficient for the  
 28 health and comfort of an animal at all times. Such term shall not include any condition  
 29 resulting from a customary and reasonable practice pursuant to farming or animal  
 30 husbandry.

31 (5) 'Adequate water' means potable water consistent with the normal requirements of an  
 32 animal's size, species, breed, age, and physical condition that is offered at suitable  
 33 intervals according to species requirements, or as dictated by naturally occurring states  
 34 of hibernation normal for the species, or as directed by a licensed veterinarian, and is  
 35 sufficient in an amount and appropriate for the particular type of animal to prevent  
 36 dehydration and maintain the animal in a state of good health.

37 ~~(1)(6)~~ 'Animal' shall not include any fish nor shall such term include any pest that might  
 38 be exterminated or removed from a business, residence, or other structure.

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

44 (7) 'Immediate supervision' shall have the same meaning as set forth in Code Section  
 45 43-50-3.

46 (8) 'Indirect supervision' shall have the same meaning as set forth in Code Section  
 47 43-50-3.

48 (9) 'Licensed veterinarian' shall have the same meaning as set forth in Code Section  
 49 43-50-3.

50 (10) 'Malice' means:

51 (A) An actual intent, which may be shown by the circumstances connected to the act,  
 52 to cause the particular harm produced without justification or excuse; or

53 (B) The wanton and willful doing of an act with an awareness of a plain and strong  
 54 likelihood that a particular harm may result.

55 (11) 'Sanitary conditions' means space free from health hazards including excessive  
 56 animal waste, overcrowding of animals, or other conditions that endanger the animal's  
 57 health. Such term shall not include any condition resulting from a customary and  
 58 reasonable practice pursuant to farming or animal husbandry.

59 (12) 'Veterinary care' means medical attention provided by a licensed veterinarian or  
 60 under the immediate supervision or indirect supervision of a licensed veterinarian,  
 61 consistent with the normal requirements of an animal's size, species, breed, age, and

62 physical condition, when such animal is or has been suffering from illness, injury,  
 63 disease, excessive parasitism, or malformed or overgrown hoof.

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

66 (b) A person commits the offense of cruelty to animals when he or she ~~causes death or~~  
 67 ~~unjustifiable physical pain or suffering to any animal by an act, an omission, or willful~~  
 68 ~~neglect:~~

69 (1) Causes physical pain, suffering, or death to an animal by any unjustifiable act or  
 70 omission, other than by the willful, wanton, or reckless failure to provide adequate care  
 71 to an animal; or

72 (2) Having care and control of an animal, willfully, wantonly, or recklessly fails to  
 73 provide adequate care to such animal.

74 ~~(c) Any person convicted of a violation of this subsection~~ the offense of cruelty to animals  
 75 shall be guilty of a misdemeanor; provided, however, that:

76 ~~(1) Any person who is convicted of a second or subsequent violation of this subsection~~  
 77 ~~shall be punished by imprisonment not to exceed 12 months, a fine not to exceed~~  
 78 ~~\$5,000.00, or both; and~~

79 ~~(2) Any any person who is convicted of a second or subsequent violation of this~~  
 80 ~~subsection which results in the death of an animal~~ has had a prior adjudication of guilt for  
 81 the offense of cruelty to animals, or an adjudication of guilt for the commission of an  
 82 offense under the laws of any other state, territory, possession, or dominion of the United  
 83 States, or of any foreign nation recognized by the United States, which would constitute  
 84 the offense of cruelty to animals if committed in this state, including an adjudication of  
 85 a juvenile for the commission of an act, whether committed in this state or in any other  
 86 state, territory, possession, or dominion of the United States, or any foreign nation  
 87 recognized by the United States, which if committed by an adult would constitute the  
 88 offense of cruelty to animals, upon the second or subsequent conviction of cruelty to  
 89 animals shall be guilty of a misdemeanor of a high and aggravated nature ~~and shall be~~  
 90 ~~punished by imprisonment for not less than three months nor more than 12 months, a fine~~  
 91 ~~not to exceed \$10,000.00, or both, which punishment shall not be suspended, probated,~~  
 92 ~~or withheld.~~

93 ~~(e)(d)~~ A person commits the offense of aggravated cruelty to animals when he or she  
 94 ~~knowingly and maliciously:~~

95 (1) Maliciously causes the death or physical harm to of an animal;

96 (2) Maliciously causes physical harm to an animal by depriving it of a member of its  
 97 body, by rendering a part of such animal's body useless, or by seriously disfiguring such  
 98 animal animal's body or a member thereof;

99 (3) Maliciously tortures an animal by the infliction of or subjection to severe or  
 100 prolonged physical pain;

101 (4) Maliciously administers poison to an animal, or exposes an animal to any poisonous  
 102 substance, with the intent that the substance be taken or swallowed by the animal; or

103 (5) Having care and control of an animal, maliciously fails to provide adequate care to  
 104 such animal to the extent that the death of such animal results, or a member of its body  
 105 is rendered useless, or its body or a member thereof is seriously disfigured.

106 (e) Any A person convicted of the offense of aggravated cruelty to animals shall be guilty  
 107 of a felony and shall be punished by imprisonment for not less than one nor more than five  
 108 years, a fine not to exceed \$15,000.00, or both; provided, however, that any person who  
 109 is convicted of a second or subsequent violation of this subsection has had a prior  
 110 adjudication of guilt for the offense of aggravated cruelty to animals, or an adjudication of  
 111 guilt for the commission of an offense under the laws of any other state, territory,  
 112 possession, or dominion of the United States, or of any foreign nation recognized by the  
 113 United States, which would constitute the offense of aggravated cruelty to animals if  
 114 committed in this state, including an adjudication of a juvenile for the commission of an  
 115 act, whether committed in this state or in any other state, territory, possession, or dominion  
 116 of the United States, or any foreign nation recognized by the United States, which if  
 117 committed by an adult would constitute the offense of aggravated cruelty to animals, upon  
 118 the second or subsequent conviction of aggravated cruelty to animals shall be punished by  
 119 imprisonment for not less than one nor more than five ten years, a fine not to exceed the  
 120 amount provided by Code Section 17-10-8 \$100,000.00, or both.

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

124 ~~(e)~~(g) The provisions of this Code section shall not be construed as prohibiting conduct  
 125 which is otherwise permitted under the laws of this state or of the United States, including,  
 126 but not limited to, agricultural, animal husbandry, butchering, food processing, marketing,  
 127 scientific, research, medical, zoological, exhibition, competitive, hunting, trapping, fishing,  
 128 wildlife management, or pest control practices or the authorized practice of veterinary  
 129 medicine nor to limit in any way the authority or duty of the Department of Agriculture,  
 130 Department of Natural Resources, any county board of health, any law enforcement officer,  
 131 dog, animal, or rabies control officer, humane society, veterinarian, or private landowner  
 132 protecting his or her property. The provisions of this Code section shall not be construed  
 133 as prohibiting animal training techniques or practices that are not otherwise specifically  
 134 prohibited by law.

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

136 ~~(A) Defending his or her person or property, or the person or property of another, from~~  
 137 ~~injury or damage being caused by an animal; or~~

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

140 (h)(1) A person shall be justified in injuring or killing an animal when and to the extent  
 141 that he or she reasonably believes that such act is necessary to defend against an  
 142 imminent threat of injury or damage to any person, other animal, or property.

143 (2) A person shall not be justified in injuring or killing an animal under the  
 144 circumstances set forth in paragraph (1) of this subsection when:

145 (A) The person being threatened is attempting to commit, committing, or fleeing after  
 146 the commission or attempted commission of a felony; or

147 (B) The person or other animal being threatened is attempting to commit or committing  
 148 a trespass or other tortious interference with property.

149 ~~(2)~~(3) The method used to injure or kill such an animal under the circumstances set forth  
 150 in paragraph (1) of this subsection shall be designed to be as humane as is possible under  
 151 the circumstances. A person who humanely injures or kills an animal under the  
 152 circumstances indicated in this subsection shall incur no civil or criminal liability or  
 153 criminal responsibility for such injury or death."

154 **SECTION 2.**

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