



ANIMAL CRUELTY STATUTE AMENDMENTS OF 2014 TOOLKIT[©]

[Animal Cruelty Statute Summary \(amended 2014\)](#)

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STATE ANIMAL CRUELTY LAW O.C.G.A. § 16-12-4;

A violation of this law warrants an arrest and defendant will be fingerprinted. Animal Control, Georgia Department of Agriculture (GA DOA) Inspector and other agencies must work with POST officers to handle offenses under this statute involving arrests.

SUMMARY

In summary, the net gain from the 2014 amendments to the AC statute, under HB 863, compared to old law are:

- Removal of confusing language regarding starvation
- Felony punishment for poisoning cases that don't result in death. pain;
- Felony punishment for "torture" cases that don't result in death, serious disfigurement, or loss of body part but produces infliction of or subjection to severe or prolonged physical pain;
- 1 – 10 enhancement for second felony.

WHICH ANIMALS ARE COVERED UNDER THIS LAW?

O.C.G.A. § 16-12-4. (1) "Animal" shall not include any fish nor shall such term include any pest that might be exterminated or removed from a business, residence, or other structure.

IS WILDLIFE AND LIVESTOCK COVERED UNDER THIS LAW?

Yes, wildlife and livestock are protected under our Animal Cruelty laws. For example, Georgia teens found beating an opossum were charged with a felony. A person found to have intentionally drowned a raccoon and a person who fed whiskey and cocaine to a goat were charged with a felony. A person cannot harm an animal and be immune from criminal charges unless he or she is exempted under O.C.G.A. § 16-12-4(g) or (h).

IS A FOOD ANIMAL COVERED UNDER THIS LAW?

In 2019, a bill was passed related to Food Animals. O.C.G.A. § 4-1-7: prior to the filing of criminal charges for a violation under Code Section 16-12-4 with regard to conduct involving animal husbandry of food animals, a law enforcement officer shall consult with a licensed and accredited Category II veterinarian employed by the department or other agency of the State of Georgia whose primary practice and responsibilities are food animal veterinary medicine to confirm whether or not such conduct is in accordance with customary and standard practice.

For purposes of this Code section, the term "food animal" means any animal that is raised for the production of an edible product intended for consumption by humans or is itself intended for consumption by humans. Such term shall include, but is not limited to, eggs, beef or dairy cattle, swine, sheep, goats, poultry, non-ornamental fish, and any other animal designated by such veterinarian as a food animal.



WHICH COURT WILL HEAR ANIMAL CRUELTY CASES?

This is a “State” violation, not a local ordinance violation. Therefore, cases will be handled in State Court for misdemeanor charges or Superior Court for felony charges. Ordinance violations are held in a local Magistrate Court (some counties use Recorder’s Court or Environmental Court).

WHO CAN ENFORCE THIS LAW?

POST certified officers shall have the authority to enforce O.C.G.A. § 16-12-4; animal control officers and the Department of Agriculture Commissioner appointee (i.e. state GA DOA Inspectors) may work with POST officers in these cases and share evidence. More authority is given to animal control officers and GA DOA inspectors under title 4, the Animal Protection Act (APA), which is not the same law as the Animal Cruelty Statute. More on the differences between these two state laws below (scroll down).

DOES THE STATE OF GEORGIA MANDATE ANIMAL RELATED POSITIONS & WHO HAS THE AUTHORITY TO RESPOND TO ANIMAL CASES?

Yes, supplementary powers in the Georgia Constitution allow any county, municipality, or combination thereof to provide public health facilities and services including animal control but does not mandate it. However, there are two statutes that mandate a county to have a designated “dog control officer” under the Responsible Dog Owner Act (2012) and a “rabies control officer” under the Rabies Control Act. See our [Mandated Position Toolkit](#). However, a designated officer can have both jobs and/or work for multiple counties. It is recommended that each county have their own for each position and those officers are trained in the laws and rules pertaining to this position.

[Responsible Dog Owner Act – Dealing with Dangerous or Vicious Dogs](#) (O.C.G.A.) § 4-8-22....(b) The governing authority of each local government shall designate an individual as dog control officer to aid in the administration and enforcement of the provisions of this article (that being the 'Responsible Dog Ownership Law.'). A person carrying out the duties of dog control officer shall not be authorized to make arrests unless the person is a law enforcement officer having the powers of arrest. (c) Any county or municipality or any combination of such local governments may enter into agreements with each other for the consolidation of dog control services under this Code section. And, [Rabies Control Law](#) O.C.G.A. §31-19-7(a) requires that the County Board of Health shall appoint a person who is knowledgeable of animals to be the County Rabies Control Officer, whose duty is to enforce this chapter and other laws which regulate the activities of dogs. Therefore, in Georgia, the primary responsibility for the control of rabies rests with the county Boards of Health, and each county must have a mandatory Rabies Control Officer. It shall be the duty of the county rabies control officer to enforce this chapter and other laws which regulate the activities of dogs.

AVOIDING DOUBLE JEOPARDY:

It happens more frequently that one realizes but many animals related violations are charged as simple ordinances initially. However, after careful review through more investigations or by a prosecutor, the case gets bumped up to a state law violation. If case has been cited under local ordinance and later gets bound over as a state misdemeanor or felony, make sure the ordinance citation does not move forward and becomes adjudicated prior to the state violation otherwise double jeopardy may attach. Communicate with the



prosecutor to ensure the citation is either dismissed due to the change in charges or some action is taken to prevent double jeopardy. The Double Jeopardy Clause in the [Fifth Amendment to the US Constitution](#) prohibits anyone from being prosecuted twice for substantially the same crime. The relevant part of the Fifth Amendment states, "No person shall . . . be subject for the same offense to be twice put in jeopardy of life or limb."

OBSTRUCTION

Any person obstructing law enforcement in their attempt to investigate animal crime cases, including dangerous dog cases, or failing to provide their animal that is subject for impound, may be charged with obstruction. O.C.G.A. § 4-1-6 covers: Obstruction, interference, or hindrance of duties. It shall be unlawful for any person to obstruct, interfere, or hinder the Commissioner, his or her designated agents and employees, an animal control officer, or a dog control officer in the lawful discharge of his or her official duties pursuant to this title. Any person convicted of a violation of this Code section shall be punished as provided in subsection (b) of Code Section 16-10-24. GA. Code 4-1-6 Obstruction, interference, or hindrance of duties (Georgia Code (2019 Edition))

HOW IS THE ANIMAL CRUELTY STATUTE DIFFERENT THAN THE ANIMAL PROTECTION ACT?

Georgia has two state criminal laws related to animal cruelty. This causes a great deal of confusion. When choosing, we recommend using the Animal Cruelty Statute (ACS), O.C.G.A §16-12-4, versus the Animal Protection Act (APA), O.C.G.A. §4-11-1 through 4-11-18.

Most law enforcement officers, judges and prosecutors are trained in Title 16 crimes, not in title 4. They typically choose the Animal Cruelty Statute, O.C.G.A. §16-12-4 and/or dog fighting statute §16-12-37 (dog fighting). Both laws offer misdemeanor and felony penalties. The APA does not offer a felony provision. Cockfighting is considered animal cruelty under O.C.G.A. §16-12-4 (per the Attorney General Opinion). For more on cockfighting, request our Cockfighting Toolkit. The Animal Protection Act, under title 4, includes misdemeanor penalties and broadens the scope of "who" can enforce that law. More on Title 4/APA below. It is important to review both and distinguish the differences so you may utilize the best one for your scenario.

IMPOUND OF ANIMAL (EVIDENCE IN YOUR CRIMINAL CASE)

Police are authorized to impound an animal(s) as evidence just like any criminal case. Animals are considered evidence in the case, but they are also victims in the case. Some local ordinances and/or state regulations authorize non-police officers to impound animals as well. In fact, a criminal case involving an animal should be treated no differently than any other case when it comes to collecting and preserving evidence.

All evidence associated with the crime which may include the animals(s) plus whatever was used in association with the crime related to the animals. For example, the appurtenances, the housing (lack of), enclosures gates, fencing, food bowls, food or contaminated food, training materials, vet or medical supplies, tools, drugs, supplements, computers, technical devices, and more can be considered evidence in the animal crime. Evidentiary animals need proper care and housing, and it is the impounding agency's job to ensure the animal(s) is/are well cared for.



While the ACS does not provide specifics for the impound of an animal, there are other laws that allow for the owner of the animal to front the cost of the impound, transport, care, vetting and housing of evidence animal(s) should the defendant fail to relinquish the animal(s) to the state. See [Cost of Animal Care Bond Law](#) Toolkit here. A specific impound section can be found under O.C.G.A. §4-11-9.2. It mentions O.C.G.A. §16-12-4 Section 4-11-9.3. Caring for an impounded animal:

- (a) It shall be the duty of any person impounding an animal under Code Section 4-11-9.2, 16-12-4, or 16-12-37 to make reasonable and proper arrangements to provide the impounded animal with humane care and adequate and necessary veterinary services. Such arrangements may include, but shall not be limited to, providing shelter and care for the animal at any state, federal, county, municipal, or governmental facility or shelter; contracting with a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services for a reasonable fee; or allowing a private individual, partnership, corporation, association, or other entity to provide humane care and adequate and necessary veterinary services as a volunteer and at no cost.
- (b) Any person impounding an animal under this article or Code Section 16-12-4 or 16-12-37 or providing care for an impounded animal shall have a lien on such animal for the reasonable costs of caring for such animal. Such lien may be foreclosed in any court of competent jurisdiction to hear civil cases. Liens shall be foreclosed in magistrate courts, only when the amount of the lien does not exceed the jurisdictional limits established by law for such courts.
- (c) Any person impounding an animal under this article shall be authorized to return such animal to its owner, upon payment by the owner of all costs of impoundment and care and upon the entry of a consent order, unless such owner has been convicted of, pled guilty to, or pled nolo contendere to animal cruelty or dog fighting under any local, state, or federal law, regulation, or ordinance, or in a prior administrative or legal action in this state or any other state, was found to have failed to provide humane care to an animal, committed cruelty to animals, or committed an act prohibited under Code Section 16-12-37 in violation of the laws of this state or of the United States or any of the several states. Such consent order shall provide conditions relating to the care and treatment of such animal, including, but not limited to, the following, that:
 - (1) Such animal shall be given humane care and adequate and necessary veterinary services.
 - (2) Such animal shall not be subjected to cruelty; and
 - (3) The owner shall comply with this article.
- (d) (1) The provisions of subsection (c) of this Code section shall not apply to an animal that was an object or instrumentality of a crime. Any agency impounding an animal because of a violation of Code Section 4-11-9.2, 16-12-4, or 16-12-37 shall not return such animal to its owner.
- (2) Any agency having custody of an animal that was seized as an object or instrumentality of a crime may, with the consent of the prosecuting attorney, apply to the court having jurisdiction over the offense for an order authorizing such agency to dispose of the animal prior to trial of the criminal case as provided by law.



CAN OWNER VISIT THE ANIMAL IF THE ANIMAL WAS IMPOUNDED IN A CRIMINAL CASE?

No. Remember, the animal is “evidence” in a case. Defendants can’t go to the Evidence Unit and see property confiscated in a crime. Imagine a bank robber asking to see/touch their gun that sits in an evidence locker. They can, however, file a motion with the court asking permission to examine evidence for purposes of trial discovery. Usually, the defense may want to have a vet examine the animal or have it scanned for microchip.

The agency having custody of an evidence animal has a duty to care and protect the animal. If the holding agency is faced with an animal owner showing up at a shelter or vet clinic to see their pet (subject of impound of a criminal case, including dangerous dogs) the agency should consult with the prosecutor. Remember, the defendant could allegedly do something (tamper or harm) to the animal during the visit. It is important to *remind* prosecutors that abusers could harm or tamper with the animal/evidence. If the defendant wants to view the animal for evidentiary purposes, he/she is allowed under the discovery rules (See Georgia Code). The right of defense to view evidence only attaches after the case is formally charged by indictment or accusation and is governed by OCGA 17-16-1 et seq.; the state must make the evidence available for inspection not later than 10 days before trial at a time agreed to by the parties or ordered by the court.

Once the right to discovery attaches, the right belongs to the defendant (see 17-16-4, generally). So, the state may not be able to prevent a defendant [if (s) he is not incarcerated] from being present for the viewing. If the defendant will be present, make sure your prosecutor puts restrictions on what the defendant is allowed to do. For example, the defendant is not allowed to touch the animal, etc. or come within XX feet of animal. To reiterate, the criminal defense attorney must follow those rules and get permission from the prosecutor, not the person/agency having custody of animal. Prosecutors have *control* over evidence; the agency having custody of animal (typically shelter directors) has *custody* of evidence. Therefore, any action regarding the animal related to the case, other than its care while impounded, is directed by the prosecutor.

A civil defense attorney may send a “spoliation of evidence letter” or file a motion to view or inspect the evidence if he/she is pursuing a civil case related to the animal. The details of those arrangements should be discussed between the prosecutor and agency having custody of said animal.

Only allow examination of evidence in animal cases under these circumstances:

- The defense attorney has filed the appropriate action under Discovery Rules to inspect the evidence **and**;
- The prosecutor gives you (agency having custody) written permission to allow the inspection with details including but not limited to, who, what, when and where. For example, who will be present, during convenient hours, location of inspection, will video or photos be allowed, etc.? Please note, regarding dangerous or fighting or diseased animals, do not allow anyone to handle the animal unless that person is qualified to do so (e.g. a veterinarian, dog bite expert). If the prosecuting attorney insist that a defense attorney or other non-qualified people will be allowed to participate in the examination of animal that may be dangerous/diseased or was used in fighting, make those present sign a liability release/wavier. Think in terms of the worst-case scenario. What if the defense attorney gets bit during the examination?
- Someone qualified from your staff should be present. In other words, there should be a state agent present to prevent destruction or tampering with the evidence.



SEPARATE CHARGES PER ANIMAL. Each animal neglected is a separate charge. For example, if one neglects 10 dogs, then the prosecutor may charge defendant with 10 misdemeanors or felonies or a combination of those depending on each animal.

EXEMPTIONS

If the actions by the person are **standard practices** for the items exempted in our law, then they will not be prosecuted unless the person is not using standard practice or rises to the level of abuse/neglect. In other words, a person cannot hide behind an exemption if they are truly abusing or neglecting an animal. See below, found under O.C.G.A. § 16-12-4(g)

DEFENSES Exemptions and defenses are found under O.C.G.A. § 16-12-4(g) or (h). Anyone claiming they were threatened, or their property was threatened, the threat has to be “imminent” in order to invoke justification. Special exemptions are found under (h) (2) B & C.

WHAT IS THE DIFFERENCE BETWEEN STATE LAWS RELATED TO ANIMAL CRUELTY & WHICH ONE IS PREFERRED?

The differences between Title 16’s Animal Cruelty Statute vs. Title 4’s Animal Protection Act are as follows: In Georgia, there are two statutes that a person may be charged with animal cruelty. Typically, law enforcement officers are trained in Title 16 and will use the “Animal Cruelty Statute” found in O.C.G.A. §16-12-4 and/or dog fighting statute §16-12-37 (dog fighting), offering both misdemeanor and felony penalties. Cockfighting is considered animal cruelty under the basic statute O.C.G.A. §16-12-4 (per the [Attorney General Opinion](#)). However, Title 4 offers the “Animal Protection Act” which includes misdemeanors penalties and broadens the scope of who can enforce. In most criminal courts, Title 16 is preferred because judges and prosecutors are familiar with Title 16. It is important to review both and distinguish the differences so you may utilize the best one for your scenario.

FEDERAL GOVERNMENT COOPERATION

O.C.G.A § 4-11-12. Cooperation with federal government. The Commissioner may cooperate with the secretary of agriculture in carrying out Public Law 89-544, commonly known as the Animal Welfare Act, as amended by Public Laws 91-579 and 94-279, and the rules and regulations issued by the secretary of agriculture under that act. The Commissioner may promulgate regulations to facilitate cooperation and avoid any unnecessary duplication or conflict of activities by the department and the secretary of agriculture in regulating the activities or areas covered by this article and Public Law 89-544. The regulations may be in addition to other regulations authorized by this article. History Code 1981, § 4-11-12, enacted by Ga. L. 1986, p. 628, § 1; Ga. L. 1990, p. 328, § 1; Ga. L. 2013, p. 141, § 4/HB 79. GA. Code 4-11-12 Cooperation with federal government (Georgia Code (2019 Edition))

WHAT ARE THE PENALTIES UNDER TITLE 4 THE ANIMAL PROTECTION ACT?

§ 4-11-10. Unlawful acts by licensed persons. It shall be unlawful for any person licensed under this article or any person employed by a person licensed under this article or under such person's supervision or control to:

- (1) Commit a violation of Code Section 16-12-4, relating to cruelty to animals;
- (2) Fail to keep the pet dealership premises, animal shelter, kennel, or stable in a good state of repair, in a clean and sanitary condition, adequately ventilated, or disinfected when needed;

(3) Fail to provide humane care for any animal; or

(4) Fail to take reasonable care to release for sale, trade, or adoption only those animals that appear to be free of disease, injuries, or abnormalities.

§ 4-11-16. Penalties

(a) Except as otherwise provided in Code Section 16-12-4 or 16-12-37, any person violating any of the provisions of this article shall be guilty of a misdemeanor and shall be punished as provided in Code Section 17-10-3; provided, however, that if such offense is committed by a corporation, such corporation shall be punished by a fine not to exceed \$1,000.00 for each such violation, community service of not less than 200 hours nor more than 500 hours, or both.

(b) Each violation of this article shall constitute a separate offense.

GA. Code 4-11-16 Penalties (Georgia Code (2019 Edition))

WHAT ARE NOT CONSIDERED DEFENSES UNDER THE LAW?

- I could not afford a doghouse or vet care
- I did not know the animal was sick or suffering
- I went off my medication and I am not well
- I am physically incapable
- I thought the animal would get better naturally / on its own
- I just found the animal or it someone's animal or I'm pet sitting (in some cases, this is a good defense, but good questioning by the officer can determine if this is true. How long was this person in custody and control of the animal?)

WHAT HAPPENS WHEN THE OWNER SAYS IT IS NOT MY ANIMAL?

Georgia law, via statute and case law, clearly identifies the person who has "custody and control" of the animal (and this could mean multiple persons) is the "owner" under the law.

ANIMAL NEGLECT & ABUSE COMES IN MANY FORMS

While animal cruelty results in an infliction of pain, suffering or distress to an animal, animal neglect narrows the definition to the deprivation of certain necessities of life: adequate levels of food, water, shelter, veterinary care, grooming, or sanitation resulting in poor physical conditions. Neglect is the most common form of animal maltreatment investigated by animal protection authorities. Under Georgia law O.C.G.A. § 16-12-4 (b), misdemeanor animal neglect based on lack of shelter can be proven in cases involving a person who, without malice, neglected an animal. The prosecutor will charge it under "omission". Under Georgia Law O.C.G.A. § 16-12-4 (d), felony animal neglect based on lack of shelter can be proven in cases involving a person who, with malice, neglected an animal.

MISDEMEANOR OR FELONY? If a prosecutor **cannot** prove that a person abused or neglected and animal **maliciously**, then a defendant can be charged with a misdemeanor per animal neglected. If malice can be proven, then felony charge(s) is/are warranted.



DO YOU HAVE TO PROVE INTENT ON MISDEMEANOR ANIMAL CRUELTY CASES?

NO - you do not have to prove intent or malice for misdemeanor animal cruelty. *See Cox v. State, 263 Ga.App. 843, 589 S.E. 2d610 (2003), cert. denied Feb, 16, 2004.* In Animal Abandonment cases, using O.C.G.A. § 4-11-15.1., the prosecutor does have to prove intent. § 4-11-15.1. Abandonment of domesticated animalit shall be unlawful for any person *knowingly and intentionally* to abandon any domesticated animal upon any public or private property or public right of way. This Code section shall not be construed as amending or otherwise affecting the provisions of Chapter 3 of this title, relating to livestock running at large or straying. If prosecutor cannot prove intent, they can use the animal cruelty statute instead. [See our Animal Abandonment Toolkit.](#)

FAILURE TO PROVIDE SHELTER examples include, but not limited, failure to provide proper shelter, exposure to elements, animal kept in crate exposed to elements or crated for long periods of time, size of shelter too small for animal to properly lay or stand, pet is provided a pet house but due hot temperatures or lack of shade, the pet cannot escape the heat, same for cold temperatures. See our [Proper Shelter Toolkit here.](#)

FAILURE TO PROVIDE VET CARE or CARE is charged under “omission” and can be charged under O.C.G.A §16-12-4 (b) (1). Examples include failure to treat an illness or injury, in grown collars, failure to have animal groomed (nails, hair, ears, teeth) according to its type or breed.

SEPARATE CHARGES PER ANIMAL.

Each animal harmed or neglected is a separate charge. For example, if one harms or neglects 10 dogs, then the prosecutor may charge the defendant with 10 misdemeanors or felonies or a combination of those charges depending on the facts.

ORDINANCE VIOLATIONS OR STATE LAW VIOLATIONS

It is estimated that 30% of our counties in Georgia do not have animal control or animal related ordinances even though Georgia state laws mandates that each county has to have a designated rabies control officer (under the Rabies law) and a dog control officer (under the Responsible Dog Owner Law aka the dangerous dog law).

That designated person(s) can be the same person and/ or work part-time and/or work for several counties (i.e. contracted between counties). The counties that do have animal ordinances may have an ordinance related to proper shelter. It may be more detailed than our Georgia state law. Ordinance violations and state law violations varies a great deal. Ordinances do not carry the same weight or penalties as state law. Ordinances are usually prosecuted in magistrate or recorders courts. Smaller fines, little jail time, if any, and shorter probation time is typical for ordinance violations.

Most importantly, ordinance violations are simple “local” violations that do not create a criminal history which follows the violator like a state law conviction would. State law violations are reported to the Georgia Crime Information Center (GCIC) and create a criminal history (referred to as a “GCIC” record) that can be researched by prosecutors in the GCIC database.

It is recommended to use state law violations on defendants who repeat the same behavior after they have been warned or are belligerent with law enforcement or when the animal has suffered a lot. The diagram below outlines the court systems in Georgia.



Criminal Cases and Courts

Magistrate Court - Citations Issued

Creates local record only

County Ordinance Violations –**Misdemeanors**

Solicitor, Police, Animal Control Officer prosecutes

- Most animal cruelty cases are heard here.
- If defendant requires a jury trial, the case will be bound over to State Court
- Prosecutor referred to as "**Assistant Solicitor**" (in most counties)

Municipal Court - Citations Issued

Creates local record only

City Ordinance Violations –**Misdemeanors**

Solicitor, Police, Animal Control Officer prosecutes

- Most animal cruelty cases are heard here.
- If defendant requires a jury trial, the case will be bound over to State Court
- Prosecutor referred to as "**Assistant Solicitor**" (in most counties)

State Court – Arrestable Offense, up to 1 year, jail, \$1,000 fine, per charge Creates Criminal History Reported on GCIC Record.

State Code Crimes- **Misdemeanors**

- Animal Cruelty O.C.G.A. § 16-12-4
- Responsible Dog Owner Act O.C.G.A. § 4-8-1 thru 4-8-33
- Title 4 or Bound Over Cases
- Disposal Actions O.C.G.A. § 4-11-9.3(d)
- Prosecutor referred to as "**Assistant Solicitor**" (in most counties)

Superior Court - Arrestable Offense, more than 1 year jail, more than \$1,000 fine per charge

Creates Criminal History Reported on GCIC Record

State Code Crimes - **Felonies**

- Felony Animal Cruelty
- Aggravated Animal Cruelty
- Dog Fighting O.C.G.A § 16-12-37
- Disposal Actions O.C.G.A. § 4-11-9.3(d)
- Prosecutor referred to as "**Assistant District Attorney**"

CHARGES CAN BE
ELEVATED OR AMENDED
BY PROSECUTOR



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MISDEMEANOR ANIMAL CRUELTY O.C.G.A. § 16-12-4 (b), PROSECUTOR HAS 6 SEPERATE WAYS TO PROVE BY:

- 1) Venue **AND**
- 2) Identify /Party to Crime **AND**
- 3) One of the following
 - Physical pain caused by an unjustifiable act; **OR**
 - Physical pain caused by an unjustifiable omission; **OR**
 - Physical suffering caused by an unjustifiable act; **OR**
 - Physical suffering caused by an unjustifiable omission; **OR**
 - Death caused by an unjustifiable act; **OR**
 - Death caused by an unjustifiable omission **AND**
- 4) Defendant's behavior is not exempted as listed in O.C.G.A. § 16-12-4(g) or (h)

MISDEMEANOR FAILURE TO PROVIDE SHELTER O.C.G.A. § 16-12-4 (b)(1), A PROSECUTOR MUST PROVE:

- 1) Venue **AND**
- 2) Identify /Party to Crime **AND**



3) One of the following

- Physical pain caused by an unjustifiable omission; **OR**
- Physical suffering caused by an unjustifiable omission; **OR**
- Death caused by an unjustifiable omission **AND**

5) Defendant's behavior is not exempted as listed in O.C.G.A. § 16-12-4(g) or (h)

MISDEMEANOR FAILURE TO PROVIDE VET CARE, O.C.G.A. § 16-12-4(b), A PROSECUTOR MUST PROVE:

1) Venue **AND**

2) Identify /Party to Crime **AND**

3) One of the following

- Physical pain caused by an unjustifiable omission; **OR**
- Physical suffering caused by an unjustifiable omission; **OR**
- Death caused by an unjustifiable omission **AND**

6) Defendant's behavior is not exempted as listed in O.C.G.A. § 16-12-4(g) or (h)

MISDEMEANOR FAILURE TO PROVIDE CARE O.C.G.A. § 16-12-4 (b)(2), A PROSECUTOR MUST PROVE:

1) Venue **AND**

2) Identify /Party to Crime **AND**

3) Intentionally exercised custody, control, possession, or ownership of an animal; **AND**

4) Fails to provide to such animal:

- adequate food; **OR**
- water; **OR**
- sanitary conditions; **OR**
- ventilation

that is consistent with what a reasonable person of ordinary knowledge would believe is the normal requirement and feeding habit for such animal's size, species, breed, age, and physical condition, **AND**

6) Defendant's behavior is not exempted as listed in O.C.G.A. § 16-12-4(g) or (h)

WHAT IS JUSTIFICATION?

An example of justification may be; "I could not feed my dog for 2 days because the veterinarian is testing him for a special colon test after 48 hours".

Justification is found under O.C.G.A. § 16-12-4 (h)(1) in addition to justification and excuse as provided in article 2 of chapter 3 of this title a person shall be justified in injuring or killing an animal to the extent that he or she reasonably believes that such act is necessary to defend against an imminent threat of injury or damage to any person, other animal or property.

The fact that a person's conduct is justified as a defense to prosecution for any crime based on that conduct. The defense of justification can be claimed:



1. When the person's conduct is justified under code section 16-3-21, 16-3-23, 16-3-24, 16-3-25, or 16-3-26;
2. When the person's conduct is in reasonable fulfillment of his duties as a government officer or employee.
3. When the person's conduct is the reasonable discipline of a minor by his parents or a person in Loco parentis;

FELONY FAILURE TO PROVIDE PROPER SHELTER FOR AN ANIMAL O.C.G.A. § 16-12-4(d)(1) or (2) or (3), A PROSECUTOR MUST PROVE:

- 1) Venue **AND**
- 2) Identify /Party to Crime **AND**
- 3) That a person had intentionally exercised custody, control, possession*, OR ownership of an animal, **AND** (* "possession" is the easiest of these to prove)
- 4) That a person does one of the following:
 - 1) Maliciously causes the death of an animal; **OR**
 - (2) Maliciously causes physical harm to an animal by depriving it of a member of its body, by rendering a part of such animal's body useless, or by seriously disfiguring such animal's body or a member thereof; **OR**
 - (5) Maliciously tortures an animal by the infliction of or subjection to severe **OR** prolonged physical pain; (not always, but typically neglect falls under "prolonged pain")
- AND
- 6) Malice – prove just one of the following:
 - a) That the person did it with an actual intent, which may be shown by the circumstances connected to the act, to cause the harm produced without justification or excuse; **OR**
 - b) The wanton and willful doing of an act with an awareness of a plain and strong likelihood that a particular harm may result. **AND**
- 7) Defendant's behavior is not exempted as listed in O.C.G.A. § 16-12-4(g) or (h)

FELONY FAILURE TO PROVIDE PROPER CARE FOR AN ANIMAL O.C.G.A. § 16-12-4(d)(5), A PROSECUTOR MUST PROVE:

- 1) Venue **AND**
- 2) Identify /Party to Crime **AND**
- 3) That a person had intentionally exercised custody, control, possession*, **OR** ownership of an animal, **AND** (* "possession" is the easiest of these to prove)
- 4) That a person fails to provide adequate sanitary conditions or ventilation that a reasonable person of ordinary knowledge would believe is required for an animal's size, species, breed, age and physical condition; **AND**
- 5) The neglect will be based on what a reasonable person of ordinary knowledge would believe is the normal requirement for that type of animal; **AND**



6) Malice – prove just one of the following:

- a) That the person did it with an actual intent, which may be shown by the circumstances connected to the act, to cause the harm produced without justification or excuse; **OR**
- b) The wanton and willful doing of an act with an awareness of a plain and strong likelihood that a particular harm may result. **AND**

7) Results in – one of the following:

- a) Death, **OR**
- b) Body part rendered useless, **OR**
- c) seriously disfigured **AND**

8) Defendant's behavior is not exempted as listed in O.C.G.A. § 16-12-4(g) or (h)

**FELONY FAILURE TO PROVIDE PROPER CARE FOR AN ANIMAL O.C.G.A. § 16-12-4 (d)(1), OR (2), OR (3),
A PROSECUTOR MUST PROVE:**

1) Venue **AND**

2) Identify /Party to Crime **AND**

3) That a person had intentionally exercised custody, control, possession*, **OR** ownership of an animal, **AND** (* "possession" is the easiest of these to prove)

4) That a person fails to provide adequate sanitary conditions or ventilation that a reasonable person of ordinary knowledge would believe is required for an animal's size, species, breed, age and physical condition; **AND**

5) The neglect will be based on what a reasonable person of ordinary knowledge would believe is the normal requirement for that type of animal; **AND**

6) Malice – prove just one of the following:

- a) That the person did it with an actual intent, which may be shown by the circumstances connected to the act, to cause the harm produced without justification or excuse; **OR**
- b) The wanton and willful doing of an act with an awareness of a plain and strong likelihood that a particular harm may result. **AND**

7) Results in – one of the following:

- a) Death, **OR**
- b) Body part rendered useless, **OR**
- c) seriously disfigured **AND**

8) Defendant's behavior is not exempted as listed in O.C.G.A. § 16-12-4(g) OR (h)

THE ANIMAL CRUELTY STATUTE, NEW LAW SINCE 2014

Ga. Code Ann., § 16-12-4 § 16-12-4. Cruelty to animals Effective: July 1, 2014

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

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



(2) "Malice" means:

- (A) An actual intent, which may be shown by the circumstances connected to the act, to cause the particular harm produced without justification or excuse; or
- (B) The wanton and willful doing of an act with an awareness of a plain and strong likelihood that a particular harm may result.

(b) A person commits the offense of cruelty to animals when he or she:

- (1) Causes physical pain, suffering, or death to an animal by any unjustifiable act or omission; or
- (2) Having intentionally exercised custody, control, possession, or ownership of an animal, fails to provide to such animal adequate food, water, sanitary conditions, or ventilation that is consistent with what a reasonable person of ordinary knowledge would believe is the normal requirement and feeding habit for such animal's size, species, breed, age, and physical condition.

(c) Any person convicted of the offense of cruelty to animals shall be guilty of a misdemeanor; provided, however, that any person who has had a prior adjudication of guilt for the offense of cruelty to animals or aggravated cruelty to animals, or an adjudication of guilt for the commission of an offense under the laws of any other state, territory, possession, or dominion of the United States, or of any foreign nation recognized by the United States, which would constitute the offense of cruelty to animals or aggravated cruelty to animals if committed in this state, including an adjudication of a juvenile for the commission of an act, whether committed in this state or in any other state, territory, possession, or dominion of the United States, or any foreign nation recognized by the United States, which if committed by an adult would constitute the offense of cruelty to animals or aggravated cruelty to animals, upon the second or subsequent conviction of cruelty to animals shall be guilty of a misdemeanor of a high and aggravated nature.

(d) A person commits the offense of aggravated cruelty to animals when he or she:

- (1) Maliciously causes the death of an animal;
- (2) Maliciously causes physical harm to an animal by depriving it of a member of its body, by rendering a part of such animal's body useless, or by seriously disfiguring such animal's body or a member thereof;
- (3) Maliciously tortures an animal by the infliction of or subjection to severe or prolonged physical pain;
- (4) Maliciously administers poison to an animal, or exposes an animal to any poisonous substance, with the intent that the substance be taken or swallowed by the animal; or
- (5) Having intentionally exercised custody, control, possession, or ownership of an animal, maliciously fails to provide to such animal adequate food, water, sanitary conditions, or ventilation that is consistent with what a reasonable person of ordinary knowledge would believe is the normal requirement and feeding habit for such animal's size, species, breed, age, and physical condition to the extent that the death of such animal results or a member of its body is rendered useless or is seriously disfigured.

(e) Any person convicted of the offense of aggravated cruelty to animals shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed \$15,000.00, or both; provided, however, that any person who has had a prior adjudication of guilt for the offense of aggravated cruelty to animals, or an adjudication of guilt for the commission of an offense under the laws of



any other state, territory, possession, or dominion of the United States, or of any foreign nation recognized by the United States, which would constitute the offense of aggravated cruelty to animals if committed in this state, including an adjudication of a juvenile for the commission of an act, whether committed in this state or in any other state, territory, possession, or dominion of the United States, or any foreign nation recognized by the United States, which if committed by an adult would constitute the offense of aggravated cruelty to animals, upon the second or subsequent conviction of aggravated cruelty to animals shall be punished by imprisonment for not less than one nor more than ten years, a fine not to exceed \$100,000.00, or both.

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

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

(h)(1) In addition to justification and excuse as provided in Article 2 of Chapter 3 of this title, a person shall be justified in injuring or killing an animal when and to the extent that he or she reasonably believes that such act is necessary to defend against an imminent threat of injury or damage to any person, other animal, or property.

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

- (A) The person being threatened is attempting to commit, committing, or fleeing after the commission or attempted commission of a crime;
- (B) The person or other animal being threatened is attempting to commit or committing a trespass or other tortious interference with property; or
- (C) The animal being threatened is not lawfully on the property where the threat is occurring.

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

Credits Laws 1968, p. 1249, § 1; Laws 1992, p. 1654, § 1; Laws 2000, p. 754, § 12; [Laws 2014, Act 588, § 1, eff. July 1, 2014](#). **Formerly** Code 1933, § 26-2802. [Notes of Decisions \(78\)](#) Ga. Code Ann., § 16-12-4, GA ST § 16-12-4 Current through Acts 343 to 346, 348 to 631, and 633 to 669 of the 2014 Regular Session.



VOTING RECORD ON THIS LAW

Date	Vote No.	Yea	Nay	NV	Exc
02/24/2014	<u>House Vote #563</u>	166	1	5	8
03/18/2014	<u>Senate Vote #654</u>	34	17	5	0
03/18/2014	<u>Senate Vote #692</u>	29	20	6	1
03/20/2014	<u>House Vote #841</u>	167	1	6	6

For more information contact info@animallawsource.org or go to www.animallawsource.org
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