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# Reporting Animal Cruelty & Neglect<sup>©</sup>

## Includes the Animal Cruelty Statute Summary (amended 2014)

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### LAWS THAT APPLY TO ANIMAL CRUELTY OR NEGLECT IN GEORGIA

Animal Cruelty Statute O.C.G.A. § 16-12-4; The Animal Welfare Act O.C.G.A. § 4-11-1 through 4-11-18; and the Georgia Department of Agriculture Rules and Regulations, Dog fighting Statute O.C.G.A. §16-12-37, Cockfighting is prosecuted under the Animal Cruelty Statute and has support from a Georgia Attorney General Opinion 2003-7, July 25, 2002, Michael Hobbs.

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 §16-12-4 and/or dog fighting statute §16-12-37 (dog fighting), offering both misdemeanor and felony penalties. But Title 4 offers the “Animal Protection Act” which offers misdemeanors penalties and broadens the scope of who can enforce, including law enforcement officers. 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 Below is the updated Animal Protection Act.

### WHICH ANIMALS ARE PROTECTED UNDER THE ANIMAL CRUELTY STATUTE?

Most animals are protected under the animal cruelty statute including companion animals, livestock, birds, and wildlife. It does not protect any fish nor shall such term include any pest that might be exterminated or removed from a business, residence, or other structure. There are a wide range of exemptions that focus on acts by humans. For example, if the act is considered customary animal husbandry in livestock, that act may not be considered cruel. See exemptions.

### HOW DO I REPORT ANIMAL CRUELTY OR NEGLECT?

Contact Animal Control Officer or Animal Control Services (ACO) and/or police or sheriff (referred to herein as Law Enforcement officers (LEO)) for the county and/or city where you witnessed the abuse/neglect. In some cases, you may be referred to ACO or to LEO, but you can certainly contact both. If you do not receive an adequate or timely response from ACO, always contact your local LEO's department. Note, some counties do not have animal control and therefore LEO contact is appropriate.

If the animal abuse or neglect warrants 911 emergency, a person may certainly call 911.



If an animal is subject to regulatory rules under the Georgia Department of Agriculture (GADOA), we recommend to ALWAYS contact local enforcement first (ACO/Police or Sheriff) and then contact the GADOA soon after. The criminal case will be handled by local LEO and/or ACO and the regulatory violation will be handled by the GADOA.

**Note:** Criminal cases are handled under their judiciary branch of the government and regulatory violations are handled under the executive branch of the government. Both can work simultaneously, and one should not affect the other. Both agencies can work together. More importantly, if a crime has occurred, local ACO and/or LEO should always be contacted first.

### **REPORTING TO THE GEORGIA DEPARTMENT OF AGRICULTURE (GADOA):**

The GADOA only governs “licensed” or “should be licensed” pet dealers who have dogs, cats, exotic birds, pet rabbits, pot-bellied pigs, equine cases, livestock case, circus or zoo animals. The GADOA does not prosecute animal fighting cases.

Please refer to the following lists to report animal abuse/cruelty or humane care violations against different species:

#### **For Companion Animals** (e.g., dogs, cats, exotic birds, pet rabbits, pot-bellied pigs)

- Report those persons holding (or should be) an Animal Protection License issued by the Georgia Department of Agriculture (or those that should be licensed) to the Animal Protection Section at 1-800-282-5852, ext. 4914 or 404-656-4914, Monday-Friday, 8:00 a.m.-4:30 p.m. ). Take a look at their website list “[Who must be licensed in Georgia?](#)”
- Report all other persons to your local law enforcement agency and the animal control office, if one exists in the area. Please report to law enforcement using the non-emergency number, unless the alleged perpetrator is actively involved in an act that threatens an animal's life or if the animal's life is in danger or suffering. If you suspect other crimes (e.g., illegal drug activity or gambling) are involved, be sure to report this as a part of the call.

#### **For Equine** (e.g., horses, mules, donkeys, zebras)

Equines are protected both under the animal cruelty statute and various other laws and rules in Georgia. Report to the Georgia Department of Agriculture Equine Health Section at 1-800-282-5852, ext. 1500 or 404-656-3667, Monday-Friday, 8:00 a.m.-4:30 p.m. or to the local law enforcement agency and the animal control office, if one exists in the area.

#### **For other Livestock** (e.g., cattle, swine, goats, sheep, poultry, llamas)

- Report to the Georgia Department of Agriculture Livestock Poultry Field Forces at 1-800-282-5852, ext. 1500 or 404-656-3667, Monday-Friday, 8:00 a.m.-4:30 p.m.
- Report to your local municipal or county police department or county sheriff's department.



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**For Circus or Zoo Animals** (e.g., elephants, primates, big cats, circus dogs)

Report to the U. S. Department of Agriculture, Animal and Plant Health Inspection Service, Animal Care, Regional Office, Raleigh, N.C. at 919-716-5532, Monday-Friday, 8:00 a.m.-4:30 p.m. They license animal dealers (pet wholesalers, animal brokers, laboratory animal breeders and dealers, exotic and wild animal dealers), animal transporters (commercial airlines), animal exhibitors (circuses, zoos, promotional animal exhibits), and research facilities. They enforce the federal Animal Welfare Act and the Code of Federal Regulations, Title 9, Chapter 1, Subchapter A. For more information, visit the USDA website.

You may wish to visit the website for the Georgia Department of Agriculture (GDOA) for more information on animal protection, cruelty to animals and requirements for licensing of animal care organizations. You may also wish to consult the website for your local animal control facility, if one exists in your county. Additional information can be found about animal abuse on this site.

**REPORTING CAPTIVE WILDLIFE OR EXOTIC ANIMALS** (e.g., whitetail deer, raptors, large cats)

Report to the Georgia Department of Natural Resources, Wildlife Resources Division at 770-761-3044, Monday-Friday, 8:00 a.m.-4:30 p.m. Ask for the region the animal is located. They will provide you the local contact. They license individuals and companies engaged in the exhibition of wildlife and exotic animals (not normally domesticated) and enforce the Standards for Humane Handling and Care, O.C.G.A. §27-5-6. For more information, visit the Department of Natural Resources website.

**WHAT DOCUMENTATION DO I NEED BEFORE REPORTING ALLEGED ANIMAL ABUSE/CRUELTY?**

In order for your report to be addressed quickly and effectively, the local police/sheriff (LEOs), animal control (ACO) and/or the Georgia Department of Agriculture (GADOA) (or all of the above) asks that you provide with the following information:

**Witness:** The name, address, and telephone number of the person who witnessed the alleged incident. Such information may be kept confidential, depending on the particular agency; however, it is helpful for investigators to have a point of contact in the event of misdirection or miscommunication. Remember, the burden of proof falls upon the accuser.

**Who:** An accurate identity of the alleged perpetrator, if known, including name, address and telephone number, if possible and known associates or co-participants in the alleged criminal activity?

**What and How:** An accurate and exact description of the incident witnessed. The investigator must receive sufficient details and be able to verify substantial portions of the information as true before being used to establish probable cause. Document complete descriptions of the animals and associated conditions and include:

- Pertinent conversations with the alleged perpetrator.
- Eyewitness accounts to reconstruct the exact happenings of what and how the incident occurred (written notes and PHOTOGRAPHS are very valuable - a picture is worth a thousand words);



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- Written documents or reports that verify conditions (i.e., veterinary examination findings);
  - The date(s) and time(s) of the incident(s)

**Where:** The specific location where the incident was witnessed (physical address and city, community, or county), including directions.

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

A violation of this law warrants an arrest and defendant will be finger printed. Animal Control, Georgia Department of Agriculture (GA DOA) Inspector and other agencies must work with POST officer 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.

#### **WHICH COURT WILL HEAR THESE CASES?**

This is a "State" violation, not a local ordinance violation and therefore cases will be handled in State court for misdemeanor charges or Superior Court for felony charges. If not handled in Magistrate 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).



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

There is a lot of confusion since we have two Georgia state crimes related to animal cruelty. 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), offering both 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](#)). The Animal Protection Act, under title 4, includes misdemeanor penalties and broadens the scope of “who” can enforce it. More on that 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 authorized 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 here.

A specific impound section can be found under O.C.G.A. §4-11-9.2. In particular, 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 as a result 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.

## **MISDEMEANOR**

The misdemeanor violation is found under O.C.G.A §16-12-4 (b). They are further broken down in to two categories O.C.G.A §16-12-4 (b) (1) or O.C.G.A §16-12-4 (b) (2)

### **§ 16-12-4.**

**(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 (*note, prosecutors do not have to prove "intent" under this section, click [here](#) for cases*); 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.



## Penalty

(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.

## Shelter and Vet Care

In misdemeanor cases involving lack of shelter or vet care; the prosecutors can charge either or both under “omission” found under O.C.G.A §16-12-4 (b) (1). Examples of these type of cases would be: 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.

Failure to provide vet care is treated the same and can be charged under O.C.G.A §16-12-4 (b) (1). Prior to these 2014 amendments, the old law treated shelter and vet care the same way (under “omission”). Coincidentally, under title 4, the Animal Protection Act, which is often confused with the Animal Cruelty Statute (Title 16), offers a definition and violation specific to “failure to provide shelter and vet care”.

**Examples:** Failure to provide proper shelter, exposure to elements; animal is unable to retreat from rain, snow, hail, direct sun/heat, extreme cold & wind; animal crated for a long period of time; size of shelter is 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; failure to provide heating or cooling even if shade or shelter does not provide relief from heat or cold, failure to properly ventilate a shelter; using caustic cleaning materials that affect animals health.

Failure to provide vet care is treated the same, under "omission". Prior to the 2014 animal cruelty law amendments, our old cruelty statute treated shelter and vet care the same way (under “omission”). Coincidentally, under title 4, the Animal Protection Act (APA), which is often confused with the ACS, O.C.G.A §16-12-4, offers a definition and violation specific to “failure to provide shelter and vet care”. The APA only offers a misdemeanor violations.

Under Animal Cruelty Statute, O.C.G.A §16-12-4, a felony violation is available if malice can be proven, among other elements to the crime.



### In-grown collar

In misdemeanor cases involving a person who, without malice, abused an animal or neglected an animal by allowing it to have in-grown collar, the prosecutor will charge it under “any unjustifiable act or omission” or O.C.G.A §16-12-4 (b) (1). Therefore, a prosecutor will have to prove:

- 1) That a person caused physical pain, suffering, or death to an animal by any unjustifiable act or omission

### Neglect

In misdemeanor cases involving neglect specific to: adequate food, water, sanitary conditions, or ventilation the prosecutor will have to prove 3 things:

- 1) That a person had intentionally exercised custody, control, possession, or ownership of an animal (proving possession will be the easiest of these), and
- 2) The person failed to provide to such animal adequate food, water, sanitary conditions, or ventilation; and
- 3) The neglect will be based on what a reasonable person of ordinary knowledge would believe is the normal requirement for that type of animal.

### **MISDEMEANOR OR FELONY?**

If a prosecutor **cannot** prove that a person abused or neglected an animal *“maliciously*, then a defendant can be charged with a misdemeanor. Each animal neglected is a separate charge. For example, if one neglects 10 dogs, then the prosecutor may charge defendant with 10 misdemeanors.

### FELONY

Regarding the types of cases above, if it can be shown that the person acted with malice, then the prosecutor may charge the defendant with a felony per animal. A prosecutor has the burden of proof to prove the elements of the case and, **in addition**, one (not both) of the following regarding malice:

- 1) 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
- 2) The wanton and willful doing of an act with an awareness of a plain and strong likelihood that a particular harm may result.

### FELONY STARVATION

For example, in a felony starvation cases the prosecutor would have to prove 4 things:

- 1) That a person had intentionally exercised custody, control, possession, or ownership of an animal, and



- 2) The person failed to provide to such animal adequate food; **and**
- 3) 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** 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 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.

### **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.

### **DEFENSES**

A threat has to be “imminent” in order to invoke justification. In the special exemptions under (h) (2) B & C, the threat still has to be imminent.

Voting record on this bill

<http://www.legis.ga.gov/Legislation/en-US/vote.aspx?VoteID=11918>



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## **NEW LAW**

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;



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- (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.

### **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))



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**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))

**OBSTRUCTION**

§ 4-1-6. 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))

###