



# Animals In Hot Cars and Proper Shelter for Hot Outdoor Temperatures<sup>©</sup>

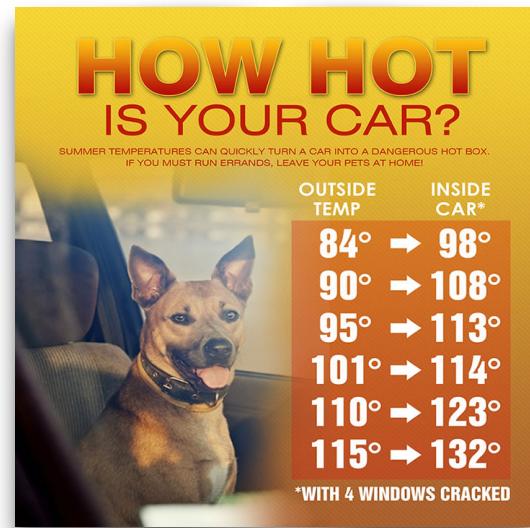
By Claudine Wilkins, Founder of Animal Law Source™ and The Animal Protection Society  
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As temperatures continue to rise in the South, people need to be reminded to leave their pets at home and not leave them in a car that can go from comfortable to deadly in a matter of minutes.

Are animals protected in the State of Georgia if they are left in hot cars or left outside without proper shelter from the heat? Yes and no.

Georgia isn't a state that specifically prohibits leaving animals in cars or allows bystanders to help without fear of punishment if they intervene.

## ANIMALS LEFT IN HOT CARS



Animals can sustain brain damage or even die from heatstroke in just 15 minutes. That isn't much time to react. So what do you do?

Without a doubt, if you saw a child suffering in a hot vehicle, you would act swiftly, and probably before even dialing 911. But animals cause some people to pause. Is it illegal? Will I get a ticket or go to jail? Will I be responsible if I damage the car attempting to get in?

### So what do you do?

Georgia is not a state that specifically prohibits leaving dogs in cars or allows bystanders to aid without fear of punishment. In Georgia, a person who leaves a dog in a hot vehicle is often charged with animal cruelty, but there are no protections in place if you smash a window in an attempt to save an animal. So, again, what do you do?

First and foremost, call 911 immediately even if you're simultaneously looking for the owner. Take down the car's make, model, and license plate number.

What you should do after that depends on the condition of the animal and using your best judgement. Criminal charges for a person who smashes a window to save an animal may be left up to the officer who responds to the scene. If a dog is truly in distress, has passed out, or it is very obvious the dog won't make it if you wait for law enforcement, take a video if you can and involve witnesses who can vouch for the severity of the situation.



Remember that even though you may not be charged with a criminal offense, you could be held liable for any damages to the vehicle. Unfortunately, it may come down to what price you are personally willing to pay to help an animal in distress.

**Here is what you can do to stop a tragedy from happening:**

1. If you are a pet owner yourself, be responsible. Leave your dog at home unless you're taking them for an activity or vet appointment.
2. Don't leave them in the shade for an errand, don't stop for groceries, and never leave them in a hot vehicle without air conditioning.
3. Tell your friends and tell them often. If you see someone leaving their vehicle with an animal in it, speak up! Remind them of the consequences. If someone is in a bind, offer to sit outside with their dog while they run inside.
4. Call your state legislator and ask them to sponsor a pawsome piece of legislation similar to those in Maine, Maryland, or Indiana, that protects animals and those who seek to help them.

## **ANIMALS LEFT OUTSIDE DURING HOT WEATHER**

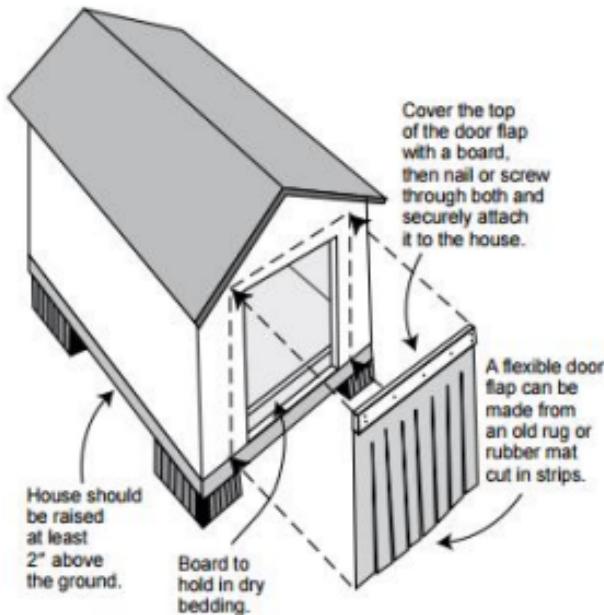
**ASK YOURSELF THIS QUESTION...**

"Does the shelter, or lack thereof, give proper protection and shelter from the elements and specifically Hot or inclement weather?"

The weather changes every day, so the shelter provided should be sufficient in case the weather becomes severe (too hot, too windy, too rainy, etc.) If a shelter/house does **NOT** provide proper temperature inside, good ventilation, dryness, daylight, and room enough for the animal to live **without unjustifiable pain or suffering**, then it is not proper shelter.

**In HOT weather, a proper shelter:**

- Provides protection from direct sun. (is there shade over the yard, dog house, etc. ).
- Allows the animal to comfortably stand, sit, lie down and turn around in its shelter.
- Has an entrance that is proportionate to the animal using it, faces away from direct sun and provide ventilation to cool the doghouse.
- Is the dog house adequately shaded in hot weather.
- Has a floor elevated several inches off of the ground that is impervious to moisture, and covered with clean, dry bedding (preferably straw).
- Is not made of materials or constructed in a manner that may pose a risk of injury to the animal



It is best to share your home with your pets and keep them inside during the scorching hot days. If pets must be kept outside for extended periods, they must be provided with proper shelter for the weather "that day". Pets kept outdoors may be exposed to weather elements such as rain, wind, and extreme heat.

There are many factors to consider when determining the adequacy of a shelter, including species and breed type as well as the coat length, age, and general health of the animal. What constitutes proper shelter for your neighbor's pet may not for yours.

### SOME DOGS ARE MEANT TO STAY INDOORS

Not all dogs are suited to be kept outside. This is true with senior dogs, puppies, small or short haired breeds. They must be conditioned slowly to the weather.

**Protected Entrance:** The shelter's entryway must be protected by a self-closing windbreak, or an offset outdoor or a flexible door flap.

**Bedding:** Sufficient amount of nonabsorbent bedding such as cedar shavings, straw, or wood chips must be provided to insulate against the cold and damp. All bedding should be kept dry and changed periodically.

### NOT PROPER SHELTER

Any shelter that does not provide protection from the elements. Those include, porches, crawl spaces, barrels, plastic kennels or airline-type animal shipping crates, inadequately insulated containers, metal or plastic drums, abandoned or parked vehicles, lean-tos and motor vehicles.

**Is a car proper shelter?** No. A proper shelter must be small enough to allow a dog to maintain body heat. Most cars are too large to meet the size requirement for proper shelter. And in hot climates, cars can be a death-trap.

**Is a garage proper shelter?** Not by itself. If a garage is heated, insulated, air conditioned and has an area with raised bedding, it may be considered proper shelter, but without these modifications, a garage is too large to meet the size requirement for proper shelter.

### IS ANY DOGHOUSE PROPER PROTECTION?

**Even popular doghouses may not provide proper shelter if weather conditions are severe. A dog was found frozen to death in an igloo-shaped doghouse on Jan. 8, 2017 in North Carolina. Authorities said that the owner of a dog found frozen to death has been identified and that criminal charges are pending.**



Animal Control officers were responding to a phone call when they found the brown female dog frozen inside an igloo-shaped doghouse. Read about the case [here](#).

**Commercially Available Dog Houses.** Dog houses bought at pet supply stores often need to be modified to meet the requirements. Sometimes you just need to raise them off the ground and install a weatherproofed flap (see diagram). Raised dog houses can also be purchased, but will still need a flap installed.

For example, if a dog is left outside during a windy and cold/freezing night (or day) and the doghouse does not provide enough protection from wind and cold, then the owner may be charged with misdemeanor animal cruelty O.C.G.A. § 16-12-4 (b)(1) as an “omission”. If malicious intent can be proven, then the owner may be charged with felony animal cruelty O.C.G.A. § 16-12-4 (d) for failure to provide shelter. More on the law below.

## FINDING RESOURCES FOR ANIMAL THAT NEED PROPER SHELTER

Lack of care is often a result from ignorance, poverty, or extenuating circumstances. These are not excuses to the law however. In some cases, an owner needs resources to assist in finding proper shelter. Contact your local animal shelter to see what they offer and check out these other resources that offer free housing or bedding: [Pets for Life](#), [Habitat For Hounds](#), and [Humane Society of the U.S.](#)

## IT IS A CRIME NOT TO PROVIDE PROPER SHELTER FOR AN ANIMAL(S)

It's a crime under Georgia law not to provide proper shelter for your animal. Animals protected under this law are not limited to dogs and cats, but include a wide range of animals (domestic animals and livestock). See all animals protected under our GA Animal Cruelty Statute by clicking on our "[Animal Cruelty Statute Toolkit@](#)".

## 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

Ordinance may have more stringent and/or detailed language related to proper shelter. In addition, ordinance may allow for an impound of an animal for various reasons. **Here is a sample local ordinance:**

Adequate shelter means protective cover appropriate for the species and providing adequate space to maintain the animal in good health, which also prevents pain, suffering or a significant risk to the animal's health. Adequate shelter shall consist of a completely enclosed structure with four sides with a door opening, a constructed floor, and a roof. It should also be clean, dry and compatible with current weather conditions, in addition to age, size, species and condition of the animal. The structure should be of sufficient size to allow the an-



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imal to stand, turn around, lie down and go in and out of the structure comfortably. Adequate shelter must be compatible with the number of animals on the property.

- (1) Adequate shelter includes, but is not limited to, the following:
  - a. Sufficient coverage and insulation to protect an animal from extreme hot and cold temperatures;
  - b. Sufficient protection from the elements to keep the animal dry;
  - c. Sufficient shade and ventilation to prevent an animal from overheating and/or dehydrating; and
  - d. Adequate bedding or resting area suitable for the breed, species, age, size, and medical condition of the animal.
- (2) Materials not suitable for shelters include, but are not limited to:
  - a. Inadequately insulated containers;
  - b. Plastic kennels or airline-type animal shipping crates;
  - c. Metal or plastic drums;
  - d. Abandoned or parked vehicles;
  - e. Uncovered porches or decks;
  - f. Lean-tos;
  - g. Any other structure that fails to provide sufficient protection from the elements.

Adequate veterinary care means medical care of an animal from or under the direction of a veterinarian and necessary to maintain the health of an animal based on the age, species, breed, etc., of the animal, or to prevent an animal from suffering from:

- (1) Ongoing infections;
- (2) Infestation of parasites;
- (3) Disease; or
- (4) Any other medical condition/injury where withholding or neglecting to provide such care would:
  - a. Endanger the health or welfare of the animal; or
  - b. Promote the spread of communicable diseases.

Adequate water means clear, clean, drinkable water in adequate supply. Examples of inadequate water include, but are not limited to: snow, ice, rainwater and rancid or contaminated water.

Animal at large means any animal found loose and not under proper restraint off of the property of its owner.

Animal control officer means any person so designated by the board of commissioners to perform the duties of animal control and enforce the provisions of this chapter. Animal under restraint means:

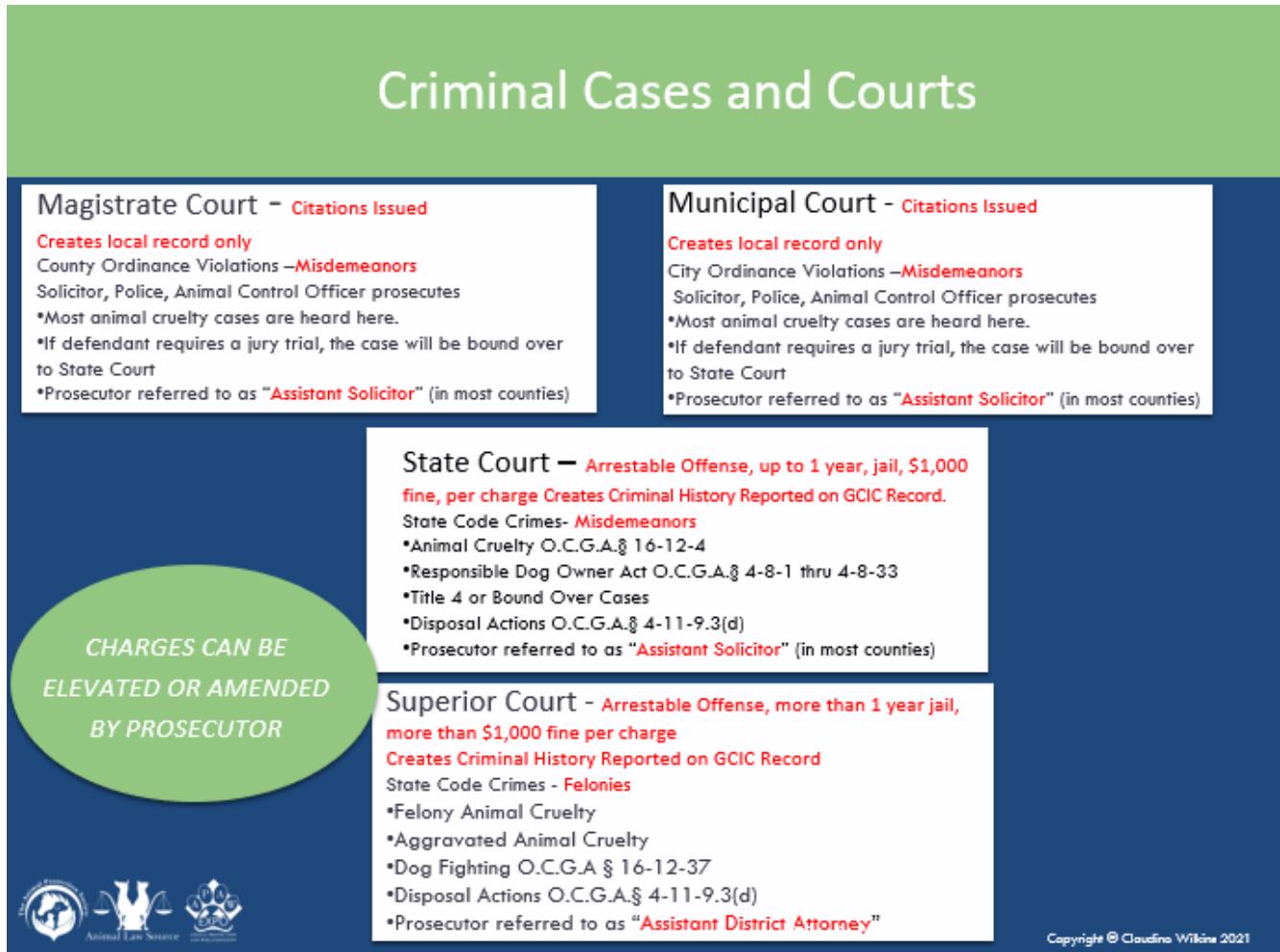
- (1) Any animal controlled within the property limits of its owner;

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. The penalty for ordinance violations are different than state law



violations. A typical ordinance violation may include a fine, but they can also include jail time and community service in addition to the fine. The length of probation time is shorter than a state violation.

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.



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.



## REPORTING A CASE OF AN ANIMAL THAT DOES NOT HAVE PROPER SHELTER

If you see an animal outside that is:

- Not protected against the elements of weather; **OR**
- Is in direct sun or not shielded from the cold; **OR**
- Showing signs of suffering; **OR**
- Tethered in a city or county that does not allow chained animals without supervision; **OR**
- Tangled in their tether or chain, or cannot freely move or reach their water/food bowls; **OR**
- In a hot car:

Contact the local animal control or call 911 if the animal is in distress due to lack of shelter. In local governments without animal control, contact the police. The animals cannot speak for themselves so never hesitate to call for help.

## OWNERSHIP OF AN ANIMAL

Georgia law, via statute and case law, clearly identifies the person who has “custody and control” of the animal is the “owner” under the law. Also, an animal can have multiple owners, for example a husband and wife. For more on “proving ownership” check out “Who Owns” in our [“Animal Cruelty Statute Toolkit©”](#).

## CHARGING A PERSON WHO FAILS TO PROVIDE PROPER SHELTER

A person may be charged under the Georgia’s State Animal Cruelty Statute (misdemeanor or felony) or charged under a local ordinance violation. For first time offenders whose animal was not found in serious distress, a visit from an animal control officer may cite owner with a warning and give the owner a chance to correct the situation. This first occasion is a perfect opportunity to educate an owner. Police (certified officer) can arrest a person who violates state animal cruelty laws. The animal may be seized depending on the circumstances.

## 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.

## INTENT IS NOT AN ELEMENT ON MISDEMEANOR CASES IN GEORGIA

You do not have to prove intent or malice for state misdemeanor animal cruelty violations. *See Cox v. State, 263 Ga.App. 843, 589 S.E. 2d 610 (2003), cert. denied Feb, 16, 2004*



## DEFENSES 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;

## NOT CONSIDERED DEFENSES UNDER THE LAW

- It's not my animal, it's my kid's animal;
- 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 of caring for animal
- 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 thorough questioning by the officer can determine if this is true. How long was this person in custody and control of the animal?)

## AVOIDING DOUBLE JEOPARDY:

It happens more frequently than one realizes but many animals related violations are charged as simple ordinances initially but 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 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.



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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)

**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**
  - (3) 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  
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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)

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For more information contact [info@animallawsource.org](mailto:info@animallawsource.org) or go to [www.animallawsource.org](http://www.animallawsource.org)

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