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Animals HB 685

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ANIMALS

General Provisions: Amend Chapter 8 of Title 4 of the Official Code of Georgia Annotated, Relating to Dogs, so as to Revise Provisions Relating to Dogs and Provisions Relating to Dangerous and Vicious Dogs; Provide for Legislative Intent; Change Provisions of Liability for Damage Caused by Dogs; Allow for More Stringent Local Regulation; Revise Provisions Relating to the Lawful Killing of Dogs; Provide for a Short Title; Provide Public Safety and Administrative Procedures for the Identification of Dangerous and Vicious Dogs; Require Registration for the Possession of Certain Dogs and to Require Certain Safety and Indemnity Measures as a Condition of Owning a Dog Classified as Vicious or Dangerous; Provide Procedural Requirements; Provide for Euthanasia of Dogs in Certain Instances; Provide for Criminal Offenses and Punishment; Provide for Reclassification of Previously Classified Dogs; Provide for an Effective Date and Applicability; Repeal Conflicting Laws; and for Other Purposes.

CODE SECTIONS:	O.C.G.A. §§ 4-8-1, -4, -5, -20, -21, -22, -23, -24, -25, -26, -27, -28, -29, -30 (amended); 4-8-31, -32, -33 (new); 4-8-40, -41, -42, -44, -45 (repealed)
BILL NUMBER:	HB 685
ACT NUMBER:	765
GEORGIA LAWS:	2012 Ga. Laws 1920
SUMMARY:	The Act revises the classification system relating to dogs whose behavior is adverse to public safety and private property, establishes more stringent requirements for registration of dangerous and vicious dogs, and provides that owners of dangerous and vicious dogs comply with specific safety measures. The Act also provides for criminal offenses and punishment for violators of the Act, and it establishes policies for confiscation and

euthanasia of dangerous and vicious dogs.

EFFECTIVE DATE: July 1, 2012

History

Before House Bill 685 passed, Georgia's Dog Bite statutes: the "Dangerous Dog Control Law,"[1] and "Vicious Dog Control Law,"[2] were a "muddled mess"[3] of rules and regulations with contradictions and inconsistent penalties and requirements.[4] Some Georgians felt that the regulations favored the dog owners and made it very difficult for victims to obtain justice.[5]

In 2009, three pit bulls attacked and killed a five-year-old girl from Thomasville, Georgia—the dogs nearly decapitated the young girl in the attack.[6] Despite the viciousness of the attack, the owner refused to have one of the dogs euthanized.[7] The county sheriff approached Representative Gene Maddox (R-172nd), who was a veterinarian by training, and asked him to strengthen the dog bite laws in Georgia and to make owning pit bulls illegal.[8] Given his long career working with various breeds of dogs, Representative Maddox knew that breed-specific regulation was not appropriate.[9] Instead, he embarked

1. O.C.G.A. § 4-8-20 (2011).

2. *Id.*, also referred to as "Mercedes' Law."

3. Video Recording of House Non-Civil Judicial Committee Meeting, Feb. 29, 2012 at 13 min., 13 sec. (remarks by Rep. Matt Ramsey (R-72nd)), http://media.legis.ga.gov/hav/11_12/2012/committees/judiNon/judiNon022912EDITED.wmv [hereinafter House Committee Video].

4. April Hunt, *DeKalb Dog Attack May Change State Law*, ATLANTA J.-CONST., Jan. 10, 2012, at B1, *available at* http://www.ajc.com/news/georgia-politics-elections/dekalb-dog-attack-may-1296875.html ("'It's a mess because it was done piecemeal over years,' said Claudine Wilkins, an attorney and former Cobb County prosecutor who focuses on child-welfare. 'It should be streamlined and the penalties increased so we can attack a very serious problem.'"). *Id.*

5. Russell Keener, *Georgia's Dog Bite Laws May Be Tightened Up*, MARIETTA INJURY LAWYER REPORT (Mar. 22, 2012), http://keenerlaw.com/personal-injury/marietta-injury-lawyer-report-georgias-dog-bite-laws-may-be-tightened-up/ ("At present there are obstacles under Georgia law for victims who want to make a claim in a dog bite case. Critics say the law favors dog owners over victims who need to prove more than one ground for liability, in marked contrast to many other states that require a single ground.").

6. House Committee Video, *supra* note 3, at 7 min., 5 sec. (remarks by Rep. Gene Maddox (R-172nd)).

7. *Id.*

8. *Id.*

9. *Id.* Rep. Maddox stated, "[The] sheriff wanted all pit bulls outlawed, but I want you to know

on a two-year journey of research, collaboration, and common sense drafting to create a completely new dog bite statute.[10] His goal was to enforce responsible dog ownership,[11] while avoiding breed-specific legislation.[12]

The former Georgia dog bite statutes classified dogs into three categories: potentially dangerous,[13] dangerous,[14] and vicious.[15] A "potentially dangerous" dog was one that without provocation bit a human being,[16] whereas a "dangerous" dog was one that inflicted a *serious injury* without provocation.[17] A "vicious" dog was a dog that inflicted serious injury without provocation more than once.[18] Unfortunately, the definitions given to those three categories were subjective and difficult to interpret.[19] For example, although the statute defined "serious injury" for dangerous and vicious dogs,[20] it failed to define what was considered a "bite" for a potentially dangerous dog. Because the rules were difficult to interpret and enforced by local officers,[21] classification was not evenly enforced.[22] Furthermore, the three classifications inadvertently created a so-called first bite rule where a dog could be classified as only

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that, remember, not all pit bull dogs are vicious, and not all vicious dogs are pits." *Id.*

10. *Id*.

11. House Committee Video*, supra* note 3, at 10 min., 20 sec. (remarks by Rep. Gene Maddox (R-172nd)). "I want this bill to be called 'A Responsible Dog Ownership Law' and I think if we can get this bill passed, and we can get the owners aware of the damage that these particular dogs can do, that they'll be more responsible for looking after them." *Id.*

12. Video Recording of House Proceedings, Mar. 7, 2012 at 1 hr., 9 min., 5 sec. (remarks by Rep. Gene Maddox (R-172nd)) http://www.gpb.org/lawmakers/2012/day-30 [hereinafter House Video].

13. O.C.G.A. § 4-8-21(a)(6) (2011).

14. *Id.* § 4-8-21(a)(1).

15. *Id.* § 4-8-41(6).

16. *Id.* § 4-8-21.

17. *Id.* § 4-8-21(a)(1)(A).

18. *Id.* § 4-8-41(6).

19. House Committee Video, *supra* note 3, at 15 min., 50 sec. (remarks by Rep. Matt Ramsey (R-72nd)) ("The support was there to provide a law that makes sense and actually protects . . . while also making sure . . . an act that you and I would deem innocuous, would get a dog classified as dangerous or potentially dangerous [such as] "Scruffy" who nipped a dog at the dog park. Which, a literal reading of the current law, really instances of that innocuous a conduct can get you listed as potentially dangerous.").

20. O.C.G.A. § 4-8-21(a)(9) (2011).

21. *Id.* § 4-8-21(a)(2).

22. See House Committee Video, supra note 3, at 14 min., 45 sec. (remarks by Rep. Matt Ramsey (R-72nd)) ("We've taken a stab at cleaning it up, proposing an alternative to what is in current code that makes sense to a person that's out there trying to enforce the law—dog control officers, local governments, local law enforcement agencies.").

potentially dangerous even after biting a human.[23] The new legislation sought to clarify those problems and ambiguities.[24]

Representative Maddox patterned a portion of the new Georgia law after existing dog bite legislation in Nebraska.[25] His greatest concern was securing judges the ability to euthanize a dog that brutally attacked someone on the very first attack.[26] For example, in the Thomasville case, under the new law, a judge would have the ability to seize the three pit bulls and have them euthanized without the owner's consent—even if that attack was the dogs' first.[27]

Maddox revised other provisions, providing a better definition of an enclosure[28] and better procedures for impounding and euthanizing dangerous and vicious dogs.[29] Requirements for owner certification of vicious dogs became more elaborate,[30] including larger insurance policies [31] and stronger enclosures required. The revisions strengthened penalties for violations as well.[32]

At the end of his two-year undertaking, Maddox, with the support of fellow lawmakers and dog welfare groups presented the dog bite statute to the House on January 10, 2012.[33]

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23. Hunt, *supra* note 4.

24. House Committee Video*, supra* note 3, at 15 min., 50 sec. (remarks by Rep. Matt Ramsey (R-72nd)).

25. House Video*, supra* note 12, at 1 hour 9 min 5 sec. (remarks by Rep. Gene Maddox (R-172nd)) ("I researched other states and decided to pattern Georgia's law with Nebraska's law.").

26. House Committee Video*, supra* note 3, at 10 min., 45 sec. (remarks by Rep. Gene Maddox (R-172nd)) ("So what this bill is going to do is its going to give the local authority the right to do the investigation, and when they get through doing the investigation, if the judge decides to euthanize the first time, he's got the right to do it.").

27. *Id. See also* House Video*, supra* note 12, at 1 hr., 23 min., 36 sec. (remarks by Rep. Al Williams (D-165th)). When discussing problems with the current Georgia law, Representative Al Williams noted:

> "A dog in Savannah whose name was Oreo seriously hurt a young lady. And Oreo was scheduled for the needle. But Oreo lawyered up, and I never quite heard this before. But Oreo went to court and a judge decided he wouldn't give him the needle. Oreo got banished from Chatham County. That's good lawyering. Oreo is walking around free tonight, and someone is still not accountable for Oreo's actions. This bill closes a hole that has been open for a long time."

Id.

28. O.C.G.A. § 4-8-27(b)(1); O.C.G.A. § 4-8-27(c)(1) (Supp. 2012).

29. O.C.G.A. §§ 4-8-24, -26, -28, -29(d), -29(e) (Supp. 2012).

30. *Id.* §§ 4-8-27(a), -27(g).

31. *Id.* § 4-8-27(c)(4).

32. *Id.* § 4-8-29(d).

33. State of Georgia Final Composite Status Sheet, HB 685, May 10, 2012.

Bill Tracking of HB 685

Consideration and Passage by House

Representatives Gene Maddox (R-172nd), Ellis Black (R-174th), Alex Atwood (R-179th), Jason Shaw (R-176th), Darlene Taylor (R-173rd), and Al Williams (D-165th) sponsored House Bill (HB) 685.[34] The House read the bill for the first time on January 10, 2012.[35] The House read the bill for the second time on January 11, 2012.[36] Speaker of the House David Ralston (R-7th) assigned the bill to the Judiciary Non-Civil Committee, which favorably reported HB 685 House Committee substitute on March 5, 2012.[37]

The House Committee substitute differed in important respects from the original bill introduced in the House.[38] The Committee incorporated the original bill's statement of intent into the beginning of the substitute bill,[39] but removed language in the original bill that created liability for a dog owner when an unprovoked dog attacks and causes injury to a non-trespasser.[40] The Committee also repealed Article 2 in its entirety and enacted a new Article 2.[41] Significantly, the Committee totally redefined the term "dangerous dog." A "dangerous dog" became one that: 1) causes a substantial puncture of a person's skin without causing serious injury; 2) aggressively attacks in a manner that causes a person to reasonably believe that the dog posed an imminent threat of serious injury; or 3) kills an animal while off the owner's property.[42] Dogs that merely nip, scratch or

34. HB 685, as introduced, 2012 Ga. Gen. Assem.

35. State of Georgia Final Composite Status Sheet, HB 685, May 10, 2012.

36. *Id.*

37. *Id.*

38. House Committee Video, *supra* note 3, at 14 min., 5 sec. (remarks by Rep. Matt Ramsey (R-72nd)).

39. *Compare* HB 685 (HCS), § 1, p. 1, ln. 19–23, 2012 Ga. Gen. Assem., *with* HB 685, as introduced, § 1, p. 16–17, ln. 540–47, 2012 Ga. Gen. Assem.

40. *Compare* HB 685 (HCS) § 2, p. 2, ln. 28–38, 2012 Ga. Gen. Assem., *with* HB 685, as introduced, § 1, p. 2, ln. 46–50, 2012 Ga. Gen. Assem. The House Judiciary Non-Civil Committee decided that there was not sufficient support for reforming tort law regarding dog attacks. House Committee Video, *supra* note 3, at 15 min., 22 sec. (remarks by Rep. Matt Ramsey (R-72nd)).

41. HB 685 (HCS), § 4, p. 2, ln. 48–49, 2012 Ga. Gen. Assem. Much of the new Article 2 simply represents reorganization of the original bill, although important changes were made as discussed *infra*.

42. *Id.* § 4, p. 3, ln. 57–66.

abrade the skin were not classified as dangerous.[43] Acts of barking, growling, or showing of teeth were also insufficient to classify a dog as dangerous.[44] The Committee substitute defined a "vicious" dog as one that inflicts serious injury on a person.[45] Such precise definitions reflected the Committee's intent to make sense of the "muddled" classification system.[46] The Committee substitute also differed from the original bill with respect to the registration process. The Committee reduced the minimum age for a certificate of registration to eighteen years old.[47] In order to receive a certificate of registration, the Committee proposed that an owner of a vicious dog should be required to comply with an elaborate set of requirements: 1) maintenance of a enclosure with certain specifications;[48] 2) posting of clearly visible warning signs; 3) placement of a microchip in the dog; and 4) maintenance of specific liability insurance of at least $50,000.[49] The owner of a dangerous dog, however, would receive a certificate of registration automatically.[50] Owning a dangerous or vicious dog without a registration certificate would result in a violation of the law.[51] Lastly, the Committee substitute provided for more severe penalties against owners of dangerous or vicious dogs who violate its provisions—they would be guilty of a misdemeanor punishable by imprisonment not to exceed twelve months, a fine of

43. *Id.* § 4, p. 3, ln. 59–60.

44. *Id.* § 4, p. 3, ln. 63–65.

45. *Id.* § 4, p. 3, ln. 79–80.

46. House Committee Video*, supra* note 3, at 13 min., 11 sec. (remarks by Rep. Matt Ramsey (R-72nd)).

47. In the original bill, a certification of registration could only be issued to those dog owners twenty-one years or older. *Compare* HB 685 (HCS), § 4, p. 5, ln. 152–53, 2012 Ga. Gen. Assem., *with* HB 685, as introduced, § 1, p. 10, ln. 323–24, 2012 Ga. Gen. Assem.

48. The original bill contained language requiring that the enclosure be designed as a "structure suitable to prevent the entry of young children." House Committee Video, *supra* note 3, at 17 min., 7 sec. (remarks by Rep. Mark Hatfield (R-177th)). Representative Hatfield proposed that the Committee amend the language to strike the words "to prevent the entry of young children." *Id.* at 17 min., 32 sec. The bill would then provide that the enclosure be "designed to securely confine the vicious dog on the owner's property, indoors, or in a securely locked and enclosed pen, fence, or structure suitable to prevent the vicious dog from leaving such property." *Id.* at 36 min., 10 sec. (remarks by Rep. Rich Golick (R-34th)). The Committee struck down the language referring to the entry of young children because it would be difficult to have an objective standard for an enclosure suitable to prevent the entry of a young child. *Id.* at 17 min., 51 sec. (remarks by Rep. Hatfield). Also the definition of a young child would be problematic. *Id.*

49. HB 685 (HCS), § 4, p. 6, ln. 160–70, 2012 Ga. Gen. Assem.

50. *Id.* § 4, p. 5, ln. 155–56.

51. *Id.* § 4, p. 5, ln. 150-52.

up to $100 for the first offense, and a fine of up to $1,000 for each subsequent offense.[52] An owner with a previous violation whose classified dog caused serious injury to a human being due to another violation of this law would be guilty of a felony, punishable by one to ten years imprisonment, or a fine between $5,000 and $10,000, or both.[53] These stringent requirements and penalties were included not to punish dog owners, but to prevent dangerous or vicious dogs from harming others.[54]

The House read the Committee substitute as amended on March 7, 2012.[55] Representative Matt Ramsey (R-72nd) introduced a floor amendment authored by Representative Penny Houston (R-170th)[56]—making it a felony for a vicious dog owner to *knowingly* violate its dog containment policy (such as allowing the dog to escape its enclosure, taking it outside without a muzzle, or using too long a leash), when such a violation results in an attack that seriously injures a human being.[57] A number of Representatives believed this felony provision was important to "get the bill through the House."[58] The House approved the Houston amendment and adopted the amended Committee substitute by a unanimous vote of 157 to 0.[59]

Consideration and Passage by Senate

Senator Bill Hamrick (R-30th) sponsored HB 685 in the Senate, and the bill was first read on March 7, 2012.[60] Lieutenant Governor Casey Cagle (R) assigned the bill to the Senate Judiciary Committee that favorably reported HB 685 Senate Committee substitute on March 22, 2012.[61]

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52. *Id.* § 4, p. 8, ln. 244–48.
53. *Id.* § 4, p. 7, ln. 218–22.
54. Telephone Interview with Representative Ellis Black (R-174th) (Apr. 18, 2012) [hereinafter Black Interview]. *See also* Telephone Interview with Representative Gene Maddox (R-172nd) [hereinafter Maddox Interview].
55. State of Georgia Final Composite Status Sheet, HB 685, May 10, 2012.
56. House Video, *supra* note 12, at 1 hr., 27 min., 44 sec. (remarks by Rep. Ramsey (R-72nd)).
57. HB 685 (CSFA), § 4, p. 7, ln. 216–22, 2012 Ga. Gen. Assem. The penalties included imprisonment between one and three years as well as a fine not more that $20,000. *Id.*
58. *See* Black Interview, *supra* note 54.
59. Georgia House of Representatives Voting Record, HB 685 (Mar. 7, 2012).
60. State of Georgia Final Composite Status Sheet, HB 685, May 10, 2012.
61. *Id.*

The Senate Committee substitute differed from the bill first read in the Senate in two very important aspects. First, the Committee decided that a certificate for a dangerous dog should not be issued automatically.[62] The Senate Committee decided that an owner must: 1) maintain an enclosure designed to securely confine the dangerous dog on the owner's property indoors or outdoors in a securely locked and enclosed structure and 2) post clearly visible warning signs at all entrances to the premises.[63] In addition, the Committee struck down the language in the bill that made it a felony when a vicious dog owner knowingly violated the dog containment policy and a human being was seriously injured.[64] Representative Black stated that the Senate's major objection to the House bill was this felony provision.[65] However, the Senate Judiciary committee retained the other felony provision—an owner of a vicious or dangerous dog, *previously convicted of a violation of the Article* shall be guilty of a felony if his dog causes serious injury to a human because of a new violation.[66]

The Senate read the Committee substitute as amended on March 22, 2012.[67] The bill was read a third time on March 26, 2012.[68] Senators Jesse Stone (R-23rd) and Hamrick offered a floor amendment written by Senator Stone exempting all dogs working as hunting, herding, or predator dogs from the bill's dog containment provisions.[69] The reason for this exemption was that these dogs are specifically trained to be aggressive, and dogs working in this manner are presumably under the control of their owners.[70] On March 26, 2012, the Senate adopted the amendment and passed the

62. *Compare* HB 685 (SCS), § 4, p. 5–6, ln. 155–62, 2012 Ga. Gen. Assem., *with* HB 685 (CSFA), § 4, p. 5, ln. 155–56, 2012 Ga. Gen. Assem.

63. HB 685 (SCS), § 4, p. 5, ln. 155–162, 2012 Ga. Gen. Assem.

64. *Compare* HB 685 (SCS), § 4, p. 7, ln. 206–29, 2012 Ga. Gen. Assem., *with* HB 685 (CSFA), § 4, p. 7, ln. 200–28, 2012 Ga. Gen. Assem.

65. *See* Black Interview, *supra* note 54.

66. HB 685 (SCS), § 4, p. 7, ln. 225–29, 2012 Ga. Gen. Assem.

67. State of Georgia Final Composite Status Sheet, HB 685, May 10, 2012.

68. *Id.*

69. Senate Floor Debate, Mar. 26, 2012 at 1 hr., 36 min., 59 sec. (remarks by Sen. Bill Hamrick R-31st)), http://www.gpb.org/lawmakers/2012/day-30 [hereinafter Senate Video]; *id.* at 1 hr., 38 min., 29 sec. (remarks by Sen. Jesse Stone (R-23rd)).

70. *Id.* at 1 hr., 38 min., 29 sec. (remarks by Sen. Jesse Stone (R-23rd)); *see also* Maddox Interview, *supra* note 54.

Committee substitute by a vote of 50 to 1.[71] On March 29, 2012, the House agreed to the Senate substitute by unanimous vote of 170 to 0.[72]

The Act

The Act extensively amends Title 4 of the Official Code of Georgia Annotated in its effort to establish a clear framework for responsible dog ownership.[73] The Act provides a new classification system for dogs harmful to human beings or to property.[74] Based on this classification system, it sets up procedural requirements for dog ownership,[75] penalties for violation of these requirements,[76] and measures for euthanasia under selected circumstances.[77]

Section 1 of the Act

Article 1 of the Act adds a new Code section 4-8-1, and moves (unaltered) old Code section 4-8-1 (that prohibited the dumping of a dead dog on private property)[78] to section 4-8-1.1. The new section declares the purpose of the Act "to establish as state law minimum standards for the control and regulation of dogs and to establish state crimes for violations of such minimum standards."[79] It also makes it clear that the Act does not prohibit local governments from instituting more restrictive regulations than the Act requires.[80] The content of the new section is quite similar to that of the previous Code section 4-8-44.[81] The Act does not alter old Code sections 4-8-2

71. Georgia State Senate Voting Record, HB 685 (Mar. 26, 2012).
72. Georgia House of Representatives Voting Record, HB 685 (Mar. 29, 2012).
73. House Committee Video, *supra* note 3, at 12 min., 43 sec. (remarks by Rep. Matt Ramsey (R-72nd)) ("[W]hat [the Act] really seeks to do now is a couple of things. One is to replace and make sense of our current dog classification laws in Georgia and the requirements that are put on the various classifications.").
74. O.C.G.A. § 4-8-21 (Supp. 2012).
75. *Id.* § 4-8-27.
76. *Id.* §§ 4-8-29, -30.
77. *Id.* §§ 4-8-25, -26, -29, -30.
78. O.C.G.A. § 4-8-1 (2011).
79. O.C.G.A. § 4-8-1 (Supp. 2012).
80. *Id.*
81. *Compare* O.C.G.A. § 4-8-1 (Supp. 2012), *with* O.C.G.A. § 4-8-44 (2011).

(that forbade the dumping of a dead dog on public property)[82] and 4-8-3 (that prohibited abandonment of a live dog).[83]

Sections 2, 3 of the Act

Section 2 of the Act amends the previous Code section 4-8-4 that dealt with liability for damage caused by dogs.[84] Section 4-8-4 established civil liability (including consequential damages) for a dog owner or custodian whose dog inflicted death or injury upon another's livestock or poultry.[85] The Act now clarifies that civil liability only applies when the dog inflicts death or injury while the dog is located *outside* the owner's (or custodian's) property.[86] In addition, the Act makes the owner or custodian liable for death or injury to *pet animals* as well as to livestock and poultry.[87]

Section 3 of the Act amends the prior Code section 4-8-5, which recognized the following exceptions to its prohibition of violence toward dogs: self-defense, defense of property, and prevention of death or injury upon a victim's livestock or poultry.[88] It now allows a person to kill any dog that causes injury or damage to his *pet animal*.[89] Section 3 of the Act does not alter Code sections 4-8-6 (prohibiting female dogs in heat from roaming free),[90] 4-8-6.1 (that addresses the removal of a dog collar without the owner's permission),[91] or 4-8-7 (that makes violation of Article 1 a misdemeanor).[92]

82. O.C.G.A. § 4-8-2 (2011).
83. *Id.* § 4-8-3.
84. *Compare* O.C.G.A. § 4-8-4 (Supp. 2012), *with* O.C.G.A. § 4-8-4 (2011).
85. O.C.G.A. § 4-8-4 (2011).
86. O.C.G.A. § 4-8-4 (Supp. 2012).
87. *Id.*
88. *Compare* O.C.G.A. § 4-8-5 (Supp. 2012), *with* O.C.G.A. § 4-8-5 (2011).
89. O.C.G.A. § 4-8-5 (Supp. 2012).
90. O.C.G.A. § 4-8-6 (2011).
91. *Id.* § 4-8-6.1.
92. *Id.* § 4-8-7. Violation of Article 1 constituted a misdemeanor except as provided in old Code sections 16-12-4 and 16-12-37. *Id.*

Section 4 of the Act

In Section 4, the Act makes its most sweeping changes to the old Code by repealing Article 2 in its entirety (old Code sections 4-8-21 to 4-8-30), and enacting a new Article 2 (which includes sections 4-8-20 to 4-8-33). Consistent with a goal toward establishing dog owner accountability,[93] the Act names Article 2 the "Responsible Dog Ownership Law."[94] Code section 4-8-21 presents the new dog classification system. The previous classification system was confusing and imprecise, often leading to inconsistent penalties placed upon irresponsible dog owners.[95] Under the old system, harmful dogs could be placed into one of three categories: potentially dangerous, dangerous, and vicious. In contrast, the Act creates a simpler, two category classification system that relies heavily upon the physical description of the injury and does not depend upon previous classification or owner notification.[96] It eliminates the "potentially dangerous" category and divides harmful dogs into two groups: dangerous and vicious.[97] It defines a dangerous dog as one that:

> (A) Causes a substantial puncture of a person's skin by teeth without causing serious injury; provided, however, that a nip, scratch, or abrasion shall not be sufficient to classify a dog as dangerous under this subparagraph;
> (B) Aggressively attacks in a manner that causes a person to reasonably believe that the dog posed an imminent threat of serious injury to such person or another person although no such

93. House Committee Video, *supra* note 3, at 10 min., 18 sec. (remarks by Rep. Gene Maddox (R-172nd)).

94. O.C.G.A. § 4-8-20 (Supp. 2012).

95. House Committee Video, *supra* note 3, at 13 min., 35 sec. (remarks by Rep. Matt Ramsey (R-72nd)) ("[T]here's just blatant contradictions in the law and things that make no sense. . . . [a]nd in some instances the penalties and requirements we place on dangerous and potentially dangerous dogs are less onerous than on vicious dogs which are dogs that have maimed and endangered people's lives in some instances.").

96. O.C.G.A. § 4-8-21 (Supp. 2012). The Act provides detailed descriptive phrases such as "substantial puncture of a person's skin by teeth," "nip, scratch, or abrasion," and "barking, growling, or showing of teeth." *Id.* None of its definitions refer to previous classifications or contain language regarding owner notification. *Id.* The Act appears to focus upon what a victim or bystander would actually experience or observe when a threatening dog attacks.

97. *Id.*

> injury occurs; provided, however, that the acts of barking, growling, or showing of teeth by a dog shall not be sufficient to classify a dog as dangerous under this subparagraph; or
> (C) While off the owner's property, kills a pet animal; provided, however that this subparagraph shall not apply when the death of such pet animal is caused by a dog that is working or training as a hunting dog, herding dog, or predator control dog.[98]

The definition of "dangerous dog" provided by the Act differs from that of the previous Code section 4-8-21 in multiple important respects: (1) a dangerous dog is now one that does not inflict serious injury; (2) actual injury is not required as long as there is reasonable belief of imminent, serious injury; and (3) a dog is dangerous if it kills a pet animal while off the owner's property.[99] The Act defines a vicious dog as one that "inflicts serious injury on a person or causes serious injury to a person resulting from reasonable attempts to escape from the dog's attack."[100] Its definition of "serious injury" is much broader the definition of "severe injury" offered by the previous Code section 4-8-21.[101] It defines serious injury as:

> [A]ny physical injury that creates a substantial risk of death; results in death, broken or dislocated bones, lacerations requiring multiple sutures, or disfiguring avulsions; requires plastic surgery or admission to a hospital; or results in protracted impairment of health, including transmission of an infection or contagious disease, or impairment of the function of any bodily organ.[102]

Both the Act and the previous Code section 4-8-21 exclude dogs from the dangerous or vicious category if the injury occurs while a law enforcement officer is using the animal to carry out official

98. *Id.*
99. *Compare* O.C.G.A. § 4-8-21 (Supp. 2012), *with* O.C.G.A. § 4-8-21 (2011).
100. O.C.G.A. § 4-8-21 (Supp. 2012).
101. *Compare id.* § 4-8-21 (including injuries causing hospitalization, prolonged health impairment, transmission of infection, or impaired organ function), *with* O.C.G.A. § 4-8-21 (2011) (not specifically mentioning these types of injuries).
102. O.C.G.A. § 4-8-21 (Supp. 2012).

duties or if the injured person was trespassing, abusing the dog, or committing a crime.[103]

Code section 4-8-22 designates the county's jurisdiction for enforcement of Article 2 and requires the governing authority of each local government to select a dog control officer to administer the law.[104] It allows local governments to make agreements with each other to consolidate dog control services.[105] These provisions do not materially differ from those provided in the old Code section 4-8-22.[106] However, the Act eliminates some of the old language regarding delegation of the duties of a dog control officer to other individuals (such as an officer of the local government, a county sheriff, or a rabies control officer).[107] Although the Act did not substantially change the content of section 4-8-22, some senators raised serious concerns about the Act's mandate for administration of the law by local governments, arguing that it might place an unfair burden upon smaller municipalities.[108]

Code section 4-8-23 merges much of the language of the old Code sections 4-8-23 and 4-8-24 to provide detailed procedures regarding investigation, notification, and hearings.[109] Any individual may contact a dog control officer when he believes a dog is dangerous or vicious.[110] The officer must then investigate to the extent necessary to make his determination regarding classification.[111] If the officer classifies the dog as either dangerous or vicious, he must mail a dated notice to the dog owner within seventy-two hours, summarizing his findings and stating that the owner has the right to request a hearing

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103. *Id.*; O.C.G.A. § 4-8-21 (2011).
104. O.C.G.A. § 4-8-22 (Supp. 2012).
105. *Id.*
106. *Compare id.* § 4-8-22, *with* O.C.G.A. § 4-8-22 (2011).
107. *Compare* O.C.G.A. § 4-8-22 (Supp. 2012), *with* O.C.G.A. § 4-8-22 (2011).
108. *See* Maddox Interview, *supra* note 54. The reason for the sole dissenting Senate vote was the concern that some local governments might lack an investigative or animal control officer. *Id.*
109. *Compare* O.C.G.A. § 4-8-23 (Supp. 2012), *with* O.C.G.A. § 4-8-23, -24 (2011) (demonstrating very similar language). A problem with the old Code was that it described its investigation, notification, and hearing procedures only as they applied to potentially dangerous and dangerous dogs. O.C.G.A. § 4-8-23, -24 (2011). Nowhere in the old Code did it discuss these procedures as they applied to vicious dogs. In fact, the old Code did not even present its "vicious" dog classification until section 4-8-41. O.C.G.A. § 4-8-41 (2011). Therefore, one of the problems with the old Code was knowing how to interpret these procedures with respect to vicious dogs.
110. O.C.G.A. § 4-8-23 (Supp. 2012).
111. *Id.* § 4-8-23(b).

within fifteen days.[112] The hearing is scheduled within thirty days after the request is received; at the hearing the owner may challenge the dog control officer's findings.[113] Within ten days of the hearing, the owner will receive the dog control officer's final determination.[114] At the House Judiciary Non-Civil meeting, Representative Charlice Byrd (R-20th) questioned the wisdom of allowing anyone—not just the victim—to initiate the investigation process merely by reporting a suspicious dog to the dog control officer.[115] Representative Maddox reminded the Committee of a woman killed by a dog in Valdosta, Georgia; the threat of such needless tragedies to innocent victims justifies a low reporting threshold.[116]

Code sections 4-8-24 to -26 address the procedures and indications for confiscating and euthanizing dogs.[117] Section 4-8-24 grants authority to a law enforcement or dog control officer to immediately confiscate (and to impound) a dog upon reasonable belief of threat to public safety.[118] Such broad discretion represents a departure from the specific criteria required for confiscation found in the old Code sections 4-8-27, -28, -42, -43.[119] In section 4-8-25 the Act provides for euthanasia when the court finds:

> [A]fter notice and opportunity for hearing . . . that the dog has seriously injured a human or presents a danger to humans not suitable for control under this article and: (1) The owner or custodian of the dog has been convicted of a violation of any

112. *Id.*
113. *Id.*
114. *Id.*
115. House Committee Video, *supra* note 3, at 30 min., 3 sec. (remarks by Rep. Charlice Byrd (R-20th)).
116. House Committee Video, *supra* note 3, at 30 min., 22 sec. (remarks by Rep. Gene Maddox (R-172nd)).
117. O.C.G.A. § 4-8-24 to -26 (Supp. 2012).
118. *Id.* § 4-8-24.
119. *Compare id.*, *with* O.C.G.A. §§ 4-8-27, -28 -42, -43 (2011). The old Code listed specific requirements for owners of *dangerous* and *potentially dangerous* dogs; violation of these requirements were its only stated indications for confiscation. O.C.G.A. §§ 4-8-27, -28 (2011). The old Code provided its indications for confiscation of *vicious* dogs in sections 4-8-42, and -43. *Id.* §§ 4-8-42, -43. One of the oddities of the old Code was that its criteria for confiscation were less stringent for vicious dogs than for dangerous or for potentially dangerous dogs. *Compare id.*, *with* O.C.G.A. §§ 4-8-27, -28 (2011). Although the Act grants broad discretion for the confiscation of these dogs, it also includes specific indications for their confiscation. O.C.G.A. § 4-8-30 (Supp. 2012).

> state criminal law and the crime was related to such dog; or (2) Any local governmental authority has filed with the court a civil action requesting the euthanasia of the dog.[120]

In Code section 4-8-26 euthanasia is also permitted—after notice and opportunity for hearing—when a dog causes a serious injury to a human on more than one occasion.[121] The Act, therefore, provides some legal shortcuts to euthanasia—shortcuts that are conspicuously absent in the old Code.[122] Representative Maddox stated that these shortcuts are necessary because of the formidable legal obstacles that stand in the way of protecting innocent victims; he remarked that it took several months for the local authorities in Thomasville, Georgia to euthanize the pit bulls that nearly killed a young girl (over the protests of the dog owner).[123]

Code section 4-8-27 mandates a registration process for owners of dangerous or vicious dogs, and it lists the requirements necessary to receive a registration certificate.[124] Failure to register or to annually renew a certificate of registration constitutes a violation.[125]

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120. O.C.G.A. § 4-8-25 (Supp. 2012).

121. *Id.* § 4-8-26.

122. *Compare id.* § 4-8-25, *with* O.C.G.A. §§ 4-8-27, -28, -42, -43 (2011). Old Code sections 4-8-27 and 4-8-28 provided for euthanasia under three sets of conditions: (1) if, *twenty* days after confiscation of his dangerous or potentially dangerous dog, the owner continued his non-compliance with the requirements listed in 4-8-27 that led to the confiscation; (2) if the owner of a dangerous dog, *previously convicted for a violation of the Code's dog control provisions*, knowingly violated a provision that resulted in a dog attack; or (3) if the owner of a dangerous dog, *regardless of prior conviction*, knowingly violated a dog control provision resulting in a dog attack *causing severe injury or death*. O.C.G.A. §§ 4-8-27, -28 (2011). The old Code listed its indications for euthanasia of a vicious dog in sections 4-8-42 and -43. *Id.* §§ 4-8-42, -43 (2011). A peculiarity of the Code was that its criteria for euthanasia were less stringent for vicious dogs than for dangerous dogs. The old Code provided for euthanasia of a vicious dog under only two conditions: (1) if, *forty* days after confiscation of his vicious dog, the owner continued his non-compliance with the requirements listed in 4-8-42 that led to its confiscation; and (2) if the owner of a vicious dog, *previously convicted* for a violation of the Code's dog control provisions, knowingly violated a provision that resulted in a dog attack. *Id.* Therefore, the old Code allowed owners of dangerous dogs *twenty* days after confiscation to come into compliance with the dog control provisions, whereas owners of vicious dogs were allowed up to *forty* days. *Id.* In addition, the old Code authorized euthanization of a dangerous dog after an attack whether or not the owner had been previously convicted for violation of dog control provisions; euthanization of a vicious dog was permitted after an attack *only* when the owner had been previously convicted. *Compare* O.C.G.A. §§ 4-8-27, -28 (2011), *with* O.C.G.A. §§ 4-8-42, -43 (2011). Even though the Act grants a "legal shortcut" for the euthanization of dogs, it also provides specific indications for euthanization discussed *infra*. O.C.G.A. §§ 4-8-29, -30 (Supp. 2012).

123. *See* Maddox Interview, *supra* note 54.

124. O.C.G.A. § 4-8-27 (Supp. 2012).

125. *Id.*

Certificates are non-transferrable, and no more than one certification can be issued to each domicile.[126] Certifications cannot be issued to the following: (1) persons younger than eighteen; (2) any person who has been convicted of two or more violations of Article 2; or (3) any person who has been convicted of a serious violent felony, the felony of dog fighting or aggravated cruelty to animals, or a felony involving "trafficking in cocaine, illegal drugs, marijuana, methamphetamine, or ecstasy as provided for in Code Sections 16-13-31 and 16-13-31.1."[127]

Owners of vicious dogs must comply with more stringent requirements than owners of dangerous dogs in order to qualify for a certificate of registration. Dangerous dog owners must: (1) maintain an enclosure designed to "securely confine the dangerous dog on the owner's property, indoors, or in a securely locked and enclosed pen, fence, or structure suitable to prevent the dangerous dog from leaving such property"; and (2) post "clearly visible warning signs . . . at all entrances to the premises."[128] Vicious dog owners must: (1) maintain an enclosure with the same specifications required for dangerous dog owners; (2) post warning signs as required for dangerous dog owners; (3) arrange for implantation of a microchip underneath the skin of the dog between its shoulder blades; and (4) maintain proof of liability insurance in the amount of at least $50,000.[129] Code section 4-8-27 differs from corresponding provisions in the old Code sections 4-8-25 and 4-8-42 by imposing more stringent requirements for owners of vicious dogs[130] and by listing several conditions whereby certifications of registration cannot be granted.[131] In addition, Code section 4-28-27 corrects the logical inconsistencies present in the old Code sections 4-8-25 and 4-8-42.[132]

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126. *Id.*

127. *Id.*

128. *Id.*

129. *Id.*

130. *Compare* O.C.G.A. § 4-8-27 (Supp. 2012), *with* O.C.G.A. § 4-8-42 (2011). Under the old Code, the only requirement for owners of vicious dogs was that their dogs remain in a proper enclosure unless the dog was restrained "by a leash and [was] under the physical restraint of a responsible person." O.C.G.A. § 4-8-42 (2011). Requirements for a sign, implanted microchip, or liability insurance were conspicuously absent. *Id.*

131. *Compare* O.C.G.A. § 4-8-27 (Supp. 2012) (listing restrictions on the granting of registration certifications), *with* O.C.G.A. § 4-8-25 (2011) (not listing such restrictions).

132. The old Code imposed greater requirements upon owners of potentially dangerous and dangerous dogs than for owners of vicious dogs. *Compare* O.C.G.A. § 4-8-25 (2011), *with* O.C.G.A.

Code section 4-8-28 addresses reporting and registration requirements for dog owners when they change their residence or when there is a change in dog ownership or condition.[133] The owner of a dangerous or vicious dog must notify the dog control officer if his dog escapes, attacks a human, dies, or is euthanized.[134] A vicious dog cannot be transferred, sold, or given to another person; instead, the owner must turn it over to a governmental facility or veterinarian to be killed.[135] If the owner of a dangerous or vicious dog moves to another jurisdiction, he must notify the old jurisdiction and register the dog in the new jurisdiction within ten days.[136] Lastly, the owner of a dangerous or vicious dog who moves to Georgia has thirty days to register.[137] The Act contains essentially the same reporting and registration requirements as provided in the previous Code.[138]

Code section 4-8-29 provides further dog containment requirements (not addressed in section 4-8-27), as well as a delineation of penalties for those who violate Article 2 provisions.[139] Section 4-8-29 makes it unlawful for an owner of a dangerous dog to remove it from his property unless he places the dog in a crate or has physical control using a leash not to exceed six feet in length.[140] Violators are guilty of a misdemeanor.[141] The Act exempts dogs working as hunting, herding, or predator control dogs from this requirement.[142] The restrictions upon owners of vicious dogs are

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§§ 4-8-25, -42 (2011). The Code required owners of potentially dangerous and dangerous dogs to post a clearly visible warning sign and to maintain a proper enclosure. O.C.G.A. § 4-8-25 (2011). Owners of dangerous dogs had an additional requirement—an insurance policy or surety bond of at least $15,000. *Id.* In contrast, the old Code did not require that the owner of a vicious dog post a sign or have an insurance policy. O.C.G.A. § 4-8-42 (2011). In fact, the Code does not mention registration at all with respect to owners of vicious dogs. *See* O.C.G.A. § 4-8-40 to -45 (where the words "registration" and "certification" are not present).

133. O.C.G.A. § 4-8-28 (Supp. 2012).

134. *Id.*

135. *Id.*

136. *Id.*

137. *Id.*

138. *Compare* O.C.G.A. § 4-8-28 (Supp. 2012), *with* O.C.G.A. § 4-8-25 (2011). Despite the similarities, the old reporting and registration requirements applied only to owners of potentially dangerous and dangerous dogs; no such requirements were mentioned with respect to owners of vicious dogs. *Compare* O.C.G.A. § 4-8-25 (2011), *with* O.C.G.A. §§ 4-8-40 to -45 (2011) (nowhere mentioning these requirements for owners of vicious dogs).

139. O.C.G.A. § 4-8-29 (Supp. 2012).

140. *Id.*

141. *Id.* § 4-8-32.

142. *Id.* § 4-8-29. Exclusion of these dogs was important to many Representatives because these dogs

predictably more rigorous. Section 4-8-29 does not permit an uncrated dog to be outside a secure enclosure (even if the dog remains on the owner's property) unless it is *restrained with both a leash and muzzled*; violators are guilty of a misdemeanor of high and aggravated nature.[143] These containment requirements do not suffer from the inconsistencies in the previous Code.[144] In addition, the Act imposes a severe penalty upon dog owners *previously convicted for any violation of Article 2*.[145] If their dog causes serious injury to a person as a result of another violation of Article 2, the owner will be guilty of a felony, punished by "imprisonment for not less than one or more than ten years, a fine of not less than $5000 or more than $10,000, or both."[146] In addition, the dog will be euthanized at the cost of the owner.[147] Significantly, the Act *requires* a previous conviction for violation of Article 2 before a dog owner can be charged with a felony.[148] Penalties under the Act are more straightforward and less confusing than those provided by the old Code.[149]

Code section 4-8-30 delineates indications and procedures for confiscation and euthanization of dangerous and vicious dogs.[150] If an owner of a dangerous or vicious dog violates any provision of

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are specially trained to be aggressive. *See* Black Interview, *supra* note 54.

143. *Id.*

144. In the old Code, the owner of a dangerous dog could not remove his dog from its enclosure unless he muzzled the dog and restrained it with a "substantial chain or leash." O.C.G.A. § 4-8-26 (2011). However, a muzzle was not required for a vicious dog. *Id.* § 4-8-42.

145. O.C.G.A. § 4-8-29 (Supp. 2012). These convictions are not restricted to violations of the requirements of section 4-8-29; they include violations of any provision of Article 2. *Id.*

146. *Id.*

147. *Id.*

148. *Id.* Sadly, this is true, even if an irresponsible dog owner knowingly violates the provisions of Article 2 and his dog kills an innocent human being. *Id.*

149. *Compare* O.C.G.A. § 4-8-29 (Supp. 2012), *with* O.C.G.A. §§ 4-8-28, -43 (2011). A violation of the old Code was more serious for an owner of a dangerous dog than for an owner of a vicious dog. *Compare* O.C.G.A. § 4-8-28 (2011), *with* O.C.G.A. § 4-8-43 (2011). An owner of a dangerous dog who violated the old Code's containment or registration requirements would be guilty of a misdemeanor of high and aggravated nature. O.C.G.A. § 4-8-28 (2011). If an owner of a dangerous dog without a previous conviction violated the Code, and as a result his dog seriously injured or killed someone, he would be guilty of a felony. *Id.* On the other hand, an owner of a vicious dog who violated the Code's containment or registration requirements would be guilty of only a misdemeanor. *Id.* § 4-8-43. The owner would be guilty of a felony only if he had been previously convicted for a violation of the Code. *Id.*

150. O.C.G.A. § 4-8-30 (Supp. 2012). The Act also provides judicial discretion to confiscate and to euthanize dogs. *Id.* §§ 4-8-24 to -26.

Article 2, the Act grants authority to a dog control or law enforcement officer to immediately confiscate his dog.[151] After confiscation, the owner may recover the dog provided he proves compliance with Article 2 and pays the associated costs and fines.[152] If the owner fails to comply within twenty days of the dog's confiscation, the dog will be euthanized.[153] Section 4-8-31 is a release of liability statement. It provides that "[u]nder no circumstances shall a local government or any employee or official of a local government be held liable for any damages to any person who suffers an injury inflicted by a dog as a result of a failure to enforce the provisions of this article."[154]

Code section 4-8-33, the last section under Article 2, deals with transitioning dogs classified under the old Code to the new system of classification.[155] Any dog classified under the old system as potentially dangerous is designated a dangerous dog; dangerous or vicious dogs are now designated as vicious dogs.[156] The owner of a reclassified dog must come into compliance with the provisions of Article 2 by January 1, 2013.[157]

Section 5 of the Act

In section 5, the Act repeals Article 3 of the old Code in its entirety. Article 3 (old Code sections 4-8-40 to 4-8-45), previously known as "Mercedes Law", dealt exclusively with vicious dog control.[158] Because the Act reclassifies "dangerous" and "vicious" dogs into the "vicious" category,[159] it now contains only two Articles, and its Article 2 covers policies and procedures for both dangerous and vicious dog control.[160]

151. O.C.G.A. § 4-8-30 (Supp. 2012).
152. *Id.*
153. *Id.*
154. *Id.* § 4-8-31.
155. *Id.* § 4-8-33.
156. *Id.*
157. O.C.G.A. § 4-8-33 (Supp. 2012).
158. O.C.G.A. §§ 4-8-40 to -45 (2011).
159. O.C.G.A. § 4-8-33 (Supp. 2012).
160. *Id.* §§ 4-8-20 to -33.

Analysis

A Successful Bill

The Responsible Dog Ownership Act is a successful replacement for Georgia's antiquated dog bite statutes.[161] The day after Governor Nathan Deal signed the bill, Representative Maddox was honored at the First National Dog Bite Investigation, Treatment, and Prevention Conference.[162] Additionally, the bill was voted as one of the top twenty bills for the 2012 Georgia legislative session.[163] Despite the general acclaim that the Act garnered, the General Assembly changed several provisions of the original bill, leaving some to wonder if the dog bite statute lost its teeth.[164]

Changes to the Felony Provision

The version of the bill approved by the House described two ways in which someone could be guilty of a felony for violating the provisions of the Act. First, under subsection 4-8-29(c) of the House version, if someone "knowingly" allowed their vicious dog to be outside of an enclosure or pen, without a muzzle, or to be around minors, *and* that event caused serious injury or death, that person could be convicted of a felony.[165] Second, under subsection 4-28-9(d), if a person previously violated the Act, and then violated it again, the second act would be a felony.[166] However, several members of the Senate were concerned that under the first felony provision a person could be guilty of a felony for negligence.[167]

161. Claudine Wilkins, Op-Ed, *Dog Bill Step in the Right Direction*, ATLANTA J-CONST., Apr. 28, 2012, at A13, *available at* http://www.ajc.com/opinion/dog-bill-step-in-1427366.html.

162. Claudine Wilkins, A New Day for Georgia's Responsible Dog Owners, WTVY.COM (May 7, 2012, 1:50 PM), http://www.wtvy.com/home/headlines/A_New_Day_for_Georgias_Responsible_Dog_Owners_150468205.html.

163. Maddox Interview, *supra* note 54.

164. *See* Wilkins, *supra* note 162.

165. HB 685 (CSFA), as passed House, § 4, p. 7, ln. 216–22, 2012 Ga. Gen. Assem.

166. *Id.* at § 4, p. 7, ln. 223–28.

167. Black Interview, *supra* note 54 ("Actually, the main problem [Senator Cowsart] and other Senators had was the fact that the bill makes it a felony for owners of previously designated vicious dogs when they negligently allow them to escape from the enclosure and injure a person. We felt we needed that provision to get the bill through the House. But the intent of the bill was not to punish dog owners but to prevent dangerous or vicious dogs from harming others.").

Thus, the Senate changed subsection 4-28-9(c) so that even if an owner knowingly violated the containment rules for a vicious dog, *and* someone was injured or killed, he could only be guilty of a misdemeanor of a high and aggravated nature.[168] The Senate version left subsection 4-28-9(d) intact, allowing a felony conviction on a second offense.[169] The final version of the bill adopted the Senate revision allowing only one way in which an owner could be found guilty of a felony when his dog seriously injured or killed a person.[170]

The removal of this provision decreases some of the muscle that the House built into the Act. Although the concerns of the senators were laudable, it seems as if they overlooked the merits of the felony provision. An owner could not be convicted of a felony if the incident was the first time his dog ever attacked or killed a person because the felony provision only applied to dogs already labeled as vicious.[171] As defined in the Act, this would be a dog that had already caused a serious injury to a person.[172] Thus, the owner is on notice that he has a potentially lethal dog and should be held to a higher standard that should come with a stiffer penalty for failure to comply.

There was legitimate concern from legislators about a vicious dog unintentionally escaping—perhaps a gate was left open by a stranger, or a tree fell on the fence of the enclosure. Thus, the House Non-Civil Judiciary Committee amended the language to add an intent component to that felony provision.[173] An owner would only commit a felony if the owner "knowingly" allowed their vicious dog to be unconfined and the result was a serious injury or death. This provision, as it left the House, would have allowed the justice system to adequately punish someone who owned a vicious dog, who did not properly control the dog, and allowed the dog to attack again. As the Act stands today, the removal of this felony provision instead

168. *See* HB685 (HB685/SCSFA/1), as passed Senate, § 4, p. 7, ln. 223–24, 2012 Ga. Gen. Assem.
169. *Id.* at § 6, p. 7, ln. 225–30.
170. O.C.G.A. §§ 4-8-28, -29 (Supp. 2012).
171. HB 685 (CSFA), as passed House, § 4, p. 7, ln. 216–22, 2012 Ga. Gen. Assem.
172. O.C.G.A. § 4-8-21(a)(6) (Supp. 2012).
173. House Video, *supra* note 12, at 1 hr., 31 min., 25 sec. (remarks by Rep. Matt Ramsey (R-72nd)) ("I think all the acts, all the scenarios, such as the tree that falls on the fence, the pizza delivery guy that opens the fence in the back yard and the dog gets out. I think this is about the owner that already knows his dog is classified as vicious and has maimed or killed another person, and if they knowingly violate their obligation to secure the dog and that dog kills or maims another human being, that person will suffer real consequences if that happens under that situation.").

amounts to what Representative Ramsey called on the House floor, a slap on the wrist and a failure of justice.

> I tell you, I live in this subdivision, and if one of my neighbors happened to have one of these dogs classified as vicious, and it got out and attacked and maimed or killed one of my children, I tell you a misdemeanor or a slap on the wrist, I'm not going to feel that justice has been done. So I think it's a good amendment, I think it is good policy.[174]

The felony provision in the House version was indeed "good policy" and should have been left in the final Act.

Sterilization Requirement is Dropped

The original version of HB 685 required the owner of a vicious dog to have their dog microchipped and sterilized.[175] Proponents of this provision pointed out that intact male dogs are responsible for 70–76% of dog bites.[176] However, extensive lobbying from dog breeders resulted in this section being dropped from the final version of the House Bill.[177] According to Claudine Wilkins, an attorney who assisted in the writing of HB 685, fifty animal control officers were polled after the removal of this provision; all of them agreed that the legislature should have left in the sterilization provision.[178] Nonetheless, the Animal Control Division supported HB 685 citing its increased effectiveness over the old system.[179]

The lobbying by dog breeders to strike this portion of the law is troubling. One of the most important aspects that a responsible dog breeder should consider is the temperament of the dog. The American Kennel Club, the largest and oldest pure bred dog registry in the United States,[180] states that "[t]emperament is a hereditary trait

174. *Id.* at 1 hr., 27 min., 44 sec.
175. HB 685, as introduced, § 4, p. 11, ln. 365–68, 2012 Ga. Gen. Assem.
176. Wilkins, *supra* note 162.
177. *Id.*
178. *Id.*
179. *Id.*
180. Lisa Peterson, *Ask AKC*, AMERICAN KENNEL CLUB, http://www.akc.org/press_center/akc_syndicate/ask_AKC/0407.cfm (last visited June 22, 2012).

in dogs, although it can be influenced by other external factors. . . . *[Y]ou should never consider breeding a dog with a questionable temperament*."[181] The sterilization provision of the Act as it as originally introduced only required sterilization for a vicious dog, a dog that had already attacked and seriously injured or killed a person; in other words, a dog with a "questionable temperament."

Avoiding Breed-Specific Language

One of the major successes of the Georgia Responsible Dog Ownership Act is that it does not implicate any particular breed in dog bites, nor does it place any additional requirements on owners of specific breeds of dogs. Legislators discussed that particular aspect of the bill at the House Committee Meeting and during debate on the House floor. Representative Maddox made clear that this revision of the Georgia dog bite statute had no breed-specific language in it, nor would he advocate any such language.

This distinction is very important because any dog, regardless of breed, may bite a person. Furthermore, the prevalence of particular breeds associated with dog bites can be linked to the popularity of the breed at a given time period.[182] A study conducted by the American Veterinary Medical Association noted that Pit Bull type dogs, often implicated in dog bites, are not disproportionately more dangerous than any other breed of dog.[183] The study further found that implementation of breed specific bans simply reduces the number of bites from that particular breed but does not affect the overall rate of dog bites in the community.[184]

Despite the removal of a few provisions in the legislative process, Georgia's Responsible Dog Ownership Law represents a major structural change in current dog bite statutes. The changes in the law

181. Theresa Shea, *A Guide to Breeding Your Dog, Step Four—Choose a Suitable Mate*, AMERICAN KENNEL CLUB, http://www.akc.org/breeders/resources/guide_to_breeding_your_dog/step_4.cfm (last visited June 21, 2012) (emphasis added).

182. AMERICAN VETERINARY MEDICAL ASSOCIATION, *Backgrounder: The Role of Breed in Dog Bite Risk and Prevention*, (Apr. 17, 2012), https://www.avma.org/KB/Resources/Backgrounders/Pages/The-Role-of-Breed-in-Dog-Bite-Risk-and-Prevention.aspx (finding the number of Rottweiler bites increased in the mid to late 1990s coinciding with the increase in the popularity of the dog breed).

183. *Id.*

184. *Id.*

are largely positive and should leave Georgia's citizens feeling safer. The Act presents more streamlined and coherent language that will be easier for local authorities to enforce, and most importantly provides the necessary remedy when serious attacks occur. Moving forward, Georgia should continue to strengthen these statutes requiring owners of dangerous and vicious dogs to take responsibility for their animals.

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