

- “Police dog” means any dog, and “police horse” means any horse, that is owned, or the service of which is employed by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.
- “Fire dog” means any dog that is owned, or the service of which is employed by a fire department, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of flammable materials or the investigation of fires.
- “SAR dog” means any search and rescue dog that is owned, or the service of which is utilized by a fire department, law enforcement agency, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of missing persons, including, but not limited to, persons who are lost, who are trapped under debris as the result of a natural, manmade or technological disaster, or who are drowning victims.

Section 843.19, F.S., was enacted in 1981 and created the third degree felony offense applicable to police dogs. The statute was subsequently amended in 1984, 1993, and 1997 to include police horses, fire dogs, and finally, SAR dogs. The 1997 amendment also removed the requirement that there be “great” bodily harm to the animal. There are no court cases interpreting the current law.

III. Effect of Proposed Changes:

The bill modifies the definition of the existing third degree felony offense to require the intent to cause great bodily harm, permanent disability, or death, and adds use of a deadly weapon upon one of the listed service animals.

Deadly weapon is generally defined by case law as any instrument, when used in the ordinary manner contemplated by its design and construction will or is likely to cause death or great bodily harm. The facts, and the way in which an object is used, usually determine whether a weapon is construed to be a deadly weapon.

The bill creates a first degree misdemeanor, punishable by up to one year in the county jail and a \$1,000 fine, where a person actually and intentionally maliciously touches, strikes, or causes bodily harm to one of the animals protected by the statute.

Under the provisions of the bill, it is a second degree misdemeanor, punishable by up to 60 days in the county jail and a \$500 fine, if a person intentionally or knowingly maliciously harasses, teases, interferes with, or attempts to interfere with one of the animals protected by the statute, while the animal is in the performance of its duties.

The bill also requires that where a person is convicted of an offense prohibited by the statute, he or she must make restitution for injuries caused to the animal and pay the replacement cost of the animal if, as a result of the offense, the animal can no longer perform its duties.

The bill would become effective July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The restitution requirement would help offset costs incurred by law enforcement, fire departments, and other agencies when one of their service animals is injured, killed, or unable to perform its duties as a result of the prohibited offenses.

VI. Technical Deficiencies:

It is suggested that the bill should become effective October 1, 2005, rather than July 1, to provide continuity in the criminal law.

Also, the word "penalty" stricken from the catch-line should be reinstated.

VII. Related Issues:

None.

VIII. Summary of Amendments:

Barcode 101000 by Criminal Justice:

Provides an exemption from a felony prosecution in cases where a person acts with lawful cause or justification. (WITH TITLE AMENDMENT)

Barcode 605784 by Criminal Justice:

Changes the effective date from July 1, 2005, to October 1, 2005.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
