



## Georgia's "Responsible Dog Ownership Law"

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### Responsible Dog Ownership Law Summary

On May 3, 2012 Governor Deal signed the "**Responsible Dog Ownership Law**" (**RDOL**), Full text of law found [here](#).

The dangerous dog law in Georgia has been amended several times over the decades and those changes came usually after a person was tragically killed or severely injured by a dog. The responsibility to control ones dog and the focus on the dog owner was the impetus for the dangerous dog law to be renamed as the **Responsible Dog Ownership** law. This law is found under O.C.G.A. § 4-8-1 through §4-8-33, was revamped in 2012 through legislation (HB 685) sponsored by House Representative Gene Maddox, a retired veterinarian.

Its purpose was to protect the public and their pets from injuries and death caused by dog attacks. This law clarifies classifications of dogs and outlines the responsibilities of classified dog owners and the consequences of non-compliance with the requirements. This review is intended to inform the reader of the most common applications of the law and answer common questions. Further study is encouraged by reviewing the entire statute listed above and reviewing case law.

**EFFECTIVE DATE:** The effective date is July 1, 2012. It was amended again in 2014.

#### **INTENTION OF THE RDOL**

O.C.G.A. § 4-8-1 establishes as state law minimum standards for the control and regulation of dogs and to establish state crimes for violations of such minimum standards. The law provides "minimal" standards across the state but does not prevent counties or cities from adding more restrictive requirements & stringent penalties.

This law clarifies classifications of dogs and outlines the requirements of owners and the consequences of non-compliance with the requirements. It provides a uniform application of criminal law for jurisdiction to control reckless dog owners and to create a statewide criminal record easily accessible on the Georgie Crime and Information Center (GCIC) database.

In general, the RDOL gives the designated dog control officer(s) the authority to classify a dog as dangerous or vicious and the classified dog owner must comply with specific requirements to keep the classified dog. Some dogs may be euthanized even on the first attack or bite (depending on the

severity of the bite/attack) or if the dog has bitten in the past. Often, the owner accepts the classification and abides by the requirements and the case is over. However, in some cases, classified dog owners may request a hearing questioning the classification.

### **DO ALL COUNTIES HAVE ANIMAL ORDINANCES OR DANGEROUS DOG ORDINANCES?**

No. Approximately 30% of our 159 counties do not have animal control services, animal ordinances or an animal shelter or a combination thereof. For more information, request a toolkit on this issue from Animal Law Source.

### **IS IT MANDATORY FOR LOCAL COUNTIES TO ADOPT THE RDOL AS A MINIMUM REQUIREMENT IN THEIR ANIMAL ORDINANCES**

Yes, Local governments *shall* adopt the RDOL as minimum standards in their local ordinance and they should have done so in 2012, and amended in 2014 as did the state law. Has your jurisdiction done so? The local government can and should add more restrictive control and regulation of dogs than the minimum standards provided by the RDOL. However, the local governments cannot reduce the minimum standards set forth in the RDOL. After the passage of RDOL, research and feedback was gathered from local jurisdictions, a sample local ordinance was drafted to use as a template for other counties. A copy can be requested from Animal Law Source.

### **REMEDIES AND RESTITUTION FOR VICTIM**

#### **Investigations – Officers, get dog owner’s insurance information during your investigation.**

In many cases, the victim has no idea how to find out whether the dog owner has any insurance or the ability to pay for damages (medical bills and/or vet bills). Often, the dog owner will not communicate information needed by the victim who may be left with injuries, damages, and cost. Only too late, the victim learns that she or he was not awarded restitution in a criminal case and has no way of knowing how to recoup damages.

Many dog owners do not have insurance moreover, the ones that do may not give insurance information to the victim. A simple name and policy number is all that is needed for the victim to file a claim. In cases where the victim cannot get this information, they are forced to file suit just to ask a dog owner if they have insurance. Filing a lawsuit cost money. Unless asked by a police or animal control officer, the dog owner may never offer this information unless forced to after a lawsuit has been filed.

During the investigation, it is imperative that the investigating officer request the dog owner’s insurance information and place it the incident report. Typically, it is a homeowners or renter’s liability policy that would cover a dog bite. Investigating officers should include the dog owner’s name, relation to the homeowner, the homeowner’s name and policy number or renter’s insurance. The identity of the landlord (in rental situations) is helpful too. This information is readily given in motor vehicle accidents and we should do the same for dog bite cases.

#### **Prosecution – Prosecutors seek restitution.**

Classification hearings are not the same as the trial for the criminal prosecution. However, in dog bite cases, restitution should be requested on behalf of the victim. Often times, the victim will be never have a civil remedy because 1) the civil law favors bad dog owners and 2) most reckless owners do not have insurance and most personal injury attorneys will not take the case simply because there is no insurance or assets. Victims can still pursue a civil action even though they were awarded restitution

in the criminal case. Since many dog owner's do not have insurance or have minimal insurance or have policies that exclude dog bites or breeds, the victims only chance for recovery will be through restitution.

### **SHOULD A CASE BE CHARGED UNDER A LOCAL DANGEROUS DOG ORDINANCE OR STATE RDOL LAW?**

The state law can be used anytime versus the local ordinance and can be used even if there is a local ordinance governing such activities. Many factors may go into this decision. Utilizing the state law will create state criminal record (GCIC) which follows the dog owner regardless of where they live in Georgia. Law enforcement/prosecutors can find a GCIC record much easier than a prior local county violation. Plus, the penalties/probation in state law is tougher & longer, respectively.

- 1) As stated above, some counties/cities do not have animal ordinances pertaining to dog bites/attacks or even dog at large law. Some do not have animal control ordinances, animal services or shelters. But every county must designate a rabies control/and dog control officer. Unfortunately, many counties/cities do not know of these Georgia state mandates. In counties that do not have a local ordinance pertaining to dangerous dogs, it is necessary to use the state RDOL law.
- 2) At any time, the state law can be used over a local ordinance. What factors are considered?
  - a. State law violations will create a state criminal record (GCIC) which follows the dog owner regardless of where they live in Georgia. Law enforcement/prosecutors can find GCIC records much easier through a databank rather than searching for a prior "local county" violations.
  - b. The penalties can be higher and probation longer with state violations.
  - c. State RDOL charges are recommended when:
    - i. the same dog attacks or bites for the second time.
    - ii. a serious injury is caused by a dog attack.
    - iii. after investigator speaks with victim(s) and dog owner(s) and determines the dog owner(s) is belligerent or apathetic towards the law and will most likely fails to control his/her dog.
    - iv. reckless dog owners violating dog laws more than once or fails to comply with requirements.
    - v. multiple dogs attacking in one event.
    - vi. On dog attacking multiple victims.
  - d. Court efficiency and court with a history of favorable and expeditious outcomes are also factors to determine how to charge your case. For example, a certain judge may take these cases seriously and outcomes are consistent in a magistrate court versus state court.
  - e. If the dog is being held in an animal shelter, you may consider court efficiency and expediting the case. Which court in your jurisdiction will allow you to do that?

### **IMMEDIATELY IMPOUND A DOG THAT POSES A THREAT TO PUBLIC SAFETY**

O.C.G.A. § 4-8-24: a law enforcement officer or dog control officer shall immediately impound a dog if the officer believes the dog poses a threat to the public safety. Regardless if a crime has been committed, if a dog poses a threat to public safety, they dog can be impounded.

## **WHAT YOU SHOULD KNOW ABOUT CLASSIFICATIONS:**

- Dogs can be classified even if the attack occurs while the dog was on its owner's property or properly restrained by owner except in these scenarios:
  - while the dog is being used by a law enforcement or military officer to carry out the law enforcement or military officer's official duties.
  - If the person injured by such dog was a person who, at the time, was committing a trespass, was abusing the dog, or was committing or attempting to commit an offense under Chapter 5 of Title 16.
  - A child under a certain age may not understand "trespass" so these cases need to be carefully examined. And, other charges may be considered like "child neglect" or "negligent supervision of a minor". Speaking to your prosecutor is recommended.
- It shall be unlawful for an owner to have or possess within this state a classified dog without a certificate of registration issued in accordance with the provisions of this O.C.G.A. § section.
- Certificates of registration shall be nontransferable and shall only be issued to a person 18 years of age or older. In other words, only one classified dog may be owned by an adult.
- No more than one certificate of registration shall be issued per domicile. In other words, only one classified dog may occupy any premise which the dog is kept at any time
- No one having a potentially dangerous (if local ordinance has such definition) may keep a dangerous or vicious dog.
- Any person who has been convicted of two or more violations of this article may not own a classified dog.
- A vicious dog may not be kept at a domicile occupied (regardless of ownership) by certain felons, more below on specific felonies acts.
- The classification is not for a limited time, rather the classification last until the dog's death.

## **WHEN DOES A POLICE OFFICER (POST CERTIFIED) NEED TO GET INVOLVED?**

Anytime. And it is recommended that police be trained in dangerous dog laws. The state law can be used even if there is a local ordinance governing such activities. The state RDOL is an arrestable and finger printable offense and police may arrest the dog owner. If local authorities are charging under an ordinance, then animal control/dog control office may cite dog owner. However, it is recommended to use the state RDOL for the reason stated above and police officers can charge a dog owner with state violations.

## **IS THE RDOL AN ARRESTABLE OFFENSE?**

Yes, the state RDOL is an arrestable/finger printable offense and police may arrest the dog owner. On December 18, 2012, an Official Attorney General's Opinion 2012-6 outlines this issue (see below for entire opinion).

## **IF A DOG OWNER REFUSES TO GIVE AUTHORITIES THE ATTACKING DOG?**

Under the RDOL, O.C.G.A. § 4-8-24, a law enforcement officer or dog control officer shall immediately impound a dog if the officer believes the dog poses a threat to the public safety. Furthermore, rabies law dictates that a quarantine period must be initiated when a dog bites a human. A refusal to surrender a dog subject to confiscation shall be a violation of this article. And, interfering with an officer's legitimate request supports a charge of obstruction and dog owner can be arrested.

## **OWNERSHIP**

Owner' means any natural person or any legal entity, including, but not limited to a corporation, partnership, firm, or trust owning, possessing, harboring, keeping, or having custody or control of a dog. In the case of a dog owned by a minor, the term 'owner' includes the parents or person in loco parentis with custody of the minor. Under civil portion it says: The owner or, if no owner can be found, the custodian exercising care and control over any dog. In proving ownership, investigate the person caring for the dog (providing food and water).

Interviewing neighbors will most likely uncover facts not provided by owner. However, some neighbors, despite having valuable information, may be reluctant to get involved. It is beneficial to request veterinarian's name and request records from directly the veterinarian rather than owner. Review records to see if vet stated anything related to the dog's aggression as it may reveal owner's prior knowledge of aggression, although that is not necessary to prove under this law. However, owner's prior knowledge of aggression may bolster prosecutor's case.

## **CAN YOU CHARGE A DOG OWNER EVEN IF THE DOG WAS LAWFULLY ON ITS OWNER'S PROPERTY OR RESTRAINED BY IT'S OWNER OR, IN GENERAL, LAWFULLY ALLOWED TO BE WHERE THE ATTACK OCCURS OR ON A LEASH?**

Yes, dog owners are responsible to any human (including their own minors living in the home) who encounters their dog in a public place or is on or enters the dog owner's property lawfully (including invited guest/family members, invitees, licensee or those allowed by law to be on the property such as letter carriers, meter readers or a person performing a duty to the owner).

Some examples that may cause a dog to be classified:

- Child A invites child B over for a play date, then child A's dog attacks child B. Same scenario as above, but the kids are in the public street in front of the house and child A calls dog over and attacks child B.
- A social party is held at dog owners' home and dog attacks a guest.
- The family dog attacks a family member in their own home.
- A meter reader comes into dog owner's yard and gets attacked by dog.
- A person enters a place of business and is attacked by dog kept at business.
- Dog is on leash, but dog owner is not controlling the actions of dog and dog bites another person or kills a pet. Dog owner must be capable of controlling his/her dog. Careless management of a dog, even a dog that is leash, still poses a public safety threat.
- Parent allows child to walk their big dog, dog chases after someone or bites causing injury to a person or kills another person's pet.

## **WHAT IF A DOG KILLS SOMEONE'S PET?**

If is a state violation if a dog *kills* another person's pet if the attacking dog was off the owner's property when the attack occurs. The RDOL states: "While off the owner's property, kills a pet animal; provided, however, that this subparagraph shall not apply where 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.

Note, like in many other states/localities "injuring" a pet animal is enough to classify a dog as dangerous or vicious. The word "injures a pet animal" was in the original Georgia legislative bill. However, a lobbyist managed to remove the word "injures". It is recommended to add it back in to

your local dangerous dog ordinance. Injuries to a pet can cause prolong suffering and are often more costly due to veterinarian bills versus the cost for a burial or cremation of a pet.

### **DANGEROUS DOG DEFINED:**

A dangerous dog may be classified if the dog:

- 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 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 owner's property, kills a pet animal (see exemptions).

Note: the verbiage of “acts of growling, barking, showing teeth alone is not enough to qualify” was later added in a hearing through the efforts of a lobbyist. In general, if the attacking dog was chasing or lunging at its victim while “growling, barking, or showing teeth” or if the dog was not under the control of its owner or off its property when victim is threatened, that would be considered a dangerous dog.

### **VICOUS DOG DEFINED**

A vicious dog may be classified if the dog:

- a. Inflicts a serious injury on a person; or
- b. Causes serious injury to a person attempting to escape attack ( cases include but not limited to falling, hitting an object, or running into the street and being hit by car).

While it is not specified in the law, any dog that bites for the second time or has been previously been classified dog as dangerous and has bitten or attacks again, should be classified a vicious, not dangerous. It is typical for escalating penalties to coincide with previous bad behavior or previous classification.

### **DANGEROUS DOG REQUIREMENTS:**

- a. Certificates of Registration: Dog owner must register & receive a certificate of registration which can only be issued to a person 18 or older. Certificates are not transferable. No more than one certificate per domicile. No more than one dangerous dog per owner and no more than one per household. No registration is allowed for any person convicted of two or more violations of this law. Certifications are renewed annually and failure to renew within ten days of renewal date constitutes a violation of this law and can result in confiscation of classified dog.
- b. Owner must maintain a secure, locked enclosure to confine the dog on the owner's property.
- c. A clearly visible sign must be posted warning of the "Dangerous" Dog at *all* entrances to the premises.

- d. Dog must not leave property unless on a leashed not to exceed 6 foot and under the immediate physical control of a person capable of preventing the dog from engaging any other human or animal when necessary, or in a locked cage or crate.
- e. Owner must notify the dog control officer within 24 hours if the dog is on the loose or has attacked a human and shall notify the dog control officer within 24 hours if the dog has died or has been euthanized.
- f. The owner of a classified dog who moves from one jurisdiction to another within the State of Georgia shall register the classified dog in the new jurisdiction within ten days of becoming a resident and notify the dog control officer of the jurisdiction from which he or she moved. The owner of a similarly classified dog who moves into this state shall register the dog within 30 days of becoming a resident.
- g. Although the law is silent on transferability of a dangerous dog, the law clearly states that a dangerous dog "certificate" is not transferable. Any new owner would have to re-register and ensure requirements are met. Failing to provide full disclosure of the dog classification or previous aggressive propensities can result in civil liability as well.
- h. Violation of any of the above requirements is a misdemeanor.
- i. Failing to comply with the requirements will result in immediate confiscation of dog and a refusal to surrender dog will constitute a violation of law, a misdemeanor.
- j. In the event the owner has not complied with the provisions of this article within 14 days\*of the date the dog was confiscated, such dog shall be released to an animal shelter, as such term is defined in O.C.G.A § 4-14-2, or euthanized in an expeditious and humane manner. The owner may be required to pay the costs of housing and euthanasia.

\*The 2104 legislative bill SB 290 reduced the 20-day period to 14 days.

#### **VICIOUS DOG REQUIREMENTS:**

- a. Certificates of Registration: Dog owner must register & receive a certificate of registration which can only be issued to a person 18 or older. Certificates are not transferable. No more than one certificate per domicile. No more than one vicious dog per owner and no more than one per household. No registration is allowed for any person convicted of two or more violations of this law. Certifications are renewed annually and failure to renew within ten days of renewal date constitutes a violation of this law and can result in confiscation of classified dog.
- b. Certificates for "vicious" dogs will not be issued to persons convicted of certain felonies involving drugs, dogfighting or aggravated cruelty to animals or to a person who resides with such felons (after two years of completing sentence, one may own a vicious dog).
- c. Owner must maintain a secure, locked enclosure to confine the dog on the owner's property (sturdy enough based on the size of dog). Note, make sure the enclosure will not allow a child to place there hands inside or between barriers.
- d. A clearly visible sign must be posted warning of the "Vicious" Dog at all entrances to the premises (can sign be sign before entering property?).
- e. Dog must not leave property unless on a leash not to exceed 6 foot and under the immediate physical control of a person capable of preventing the dog from engaging any other human or animal when necessary, or in a locked cage or crate.
- f. Dog cannot leave the property unless leashed, muzzled and under control, or in a locked cage or crate. Violation of this is high & aggravated misdemeanor.

- g. Dog cannot leave unattended with minors (even if minor is inside the owner's home). Violation of this is high & aggravated misdemeanor.
  - h. Dog must be microchipped capable of being scanned (it is recommended that the microchipped contain the classification data).
  - i. A 50,000-liability insurance policy which covers bodily injury or property damage caused by the dog must be maintained by the owner.
- No "vicious" dog may be sold, transferred or donated to any other person. It must be relinquished to a government facility or veterinarian to be euthanized.
  - Violation of any of the above requirements is a misdemeanor except a vicious dog that is unleashed, unmuzzled, not under control, not in a locked cage or crate when off property or left unattended with a minor, constitutes a high & aggravated misdemeanor.
  - Failing to comply with these requirements will result in immediately confiscation and a refusal to surrender dog will constitute a violation of law, a misdemeanor.
  - In the event the owner has not complied with the provisions of this article within 14 days\* of the date the dog was confiscated, such dog shall be released to an animal shelter, as such term is defined in O.C.G.A. § 4-14-2, or euthanized in an expeditious and humane manner. The owner may be required to pay the costs of housing and euthanasia.
- \*The 2104 legislative bill SB 290 reduced the 20-day period to 14 days.

#### **CERTAIN FELONS CANNOT OWN A VICIOUS DOG**

No certificate of registration for a vicious dog shall be issued to any person who has been convicted of:

- (A) A serious violent felony as defined in O.C.G.A. § §17-10-6.1.
- (B) The felony of dogfighting as provided for in O.C.G.A. § § 16-12-37 or the felony of aggravated cruelty to animals as provided for in O.C.G.A. § §16-12-4; or
- (C) A felony involving trafficking in cocaine, illegal drugs, marijuana, methamphetamine, or ecstasy as provided for in O.C.G.A. § § 16-13-31 and §16-13-31.1 from the time of conviction until two years after completion of his or her sentence, nor to any person residing with such person.

#### **REGISTRATION AND RENEWALS, DOG CONTROL OFFICER DUTIES TO VERIFY COMPLIANCE**

Certificates of registration shall be renewed on an annual basis. At the time of renewal of a certificate of registration for a classified dog, a dog control officer (which can be police) shall verify that the owner is continuing to comply with provisions of this article. Failure to renew a certificate of registration within ten days of the renewal date or initial classification date shall constitute a new and separate violation of this article.

#### **DUTY FOR OFFICER TO VERIFY COMPLIANCE**

Depending on the classification, the list below provides guidance.

Officer must verify compliance at the time of renewal by verifying:

- 1) current microchip, rabies vaccines, check current criminal record of owner and other's residing in domicile, inquire about minors having access to dog;
- 2) Officer should go to place where vicious dog resides to verify the dog has access to enclosures, the enclosure is proper for the size and breed, check if warning signs have been posted conspicuously and at all entrances of the property;



- 3) Officer must verify insurance by contacting insurance company for active & correct coverage. Do not rely on owner's submissions or letter which may be outdated or not accurate or could be cancelled the day after officer checks. Make sure the insurance covers the specific classified dog and it will cover bodily injury. These days, many insurance coverages exclude dog bites or certain breeds. Periodic checks are suggested to ensure continual coverage. Failure to maintain continuous coverage is a violation of the RDOL.
- 4) Check if muzzle used for dog is appropriate to allow dog to breath, check crate size and strength of crate materials and leash durability used for dog
- 5) Officer should ask about plans to move locations and other pertinent inquiries necessary to ascertain the dog owner complies.
- 6) Use this time to educate the dog owner on general pet ownership responsibility, the laws and any resources available to them.

**FAILING TO RENEW WITHIN TIME PERIOD CONSTITUTES ANOTHER VIOLATION**

Failure to renew a certificate of registration within ten days of the renewal date or initial classification date shall constitute a new and separate violation of this article.

O.C.G.A § 4-8-30

(a) A dangerous or vicious dog shall be immediately confiscated by any dog control officer or by a law enforcement officer in the case of any violation of this article. A refusal to surrender a dog subject to confiscation shall be a violation of this article.

(b) The owner of any dog that has been confiscated pursuant to this article may recover such dog upon payment of reasonable confiscation and housing costs and proof of compliance with the provisions of this article. All fines and all charges for services performed by a law enforcement or dog control officer shall be paid prior to owner recovery of the dog. Criminal prosecution shall not be stayed due to owner recovery or euthanasia of the dog.

(c) In the event the owner has not complied with the provisions of this article within 20 days of the date the dog was confiscated, such dog shall be destroyed in an expeditious and humane manner and the owner may be required to pay the costs of housing and euthanasia.

**PENALTY**

Both misdemeanors & felony provisions are in the RDOL. In general, most violations under the RDOL are misdemeanors.

**FELONY**

An owner with a previous conviction for a violation of this law whose classified dog causes serious injury to a human being under circumstances constituting another violation of this article shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not less than one nor more than ten years, a fine of not less than \$5,000.00 nor more than \$10,000.00, or both. In addition, the classified dog shall be euthanized at the cost of the owner.

**WHAT IF DOG CANNOT BE CONTROLLED UNDER THE REQUIREMENTS SET FORTH UNDER THE CLASSIFICATION?**

Under O.C.G.A. §4-8-25, the judge of any superior court of competent jurisdiction within this state may order the euthanasia of a dog if the court finds, after notice and opportunity for hearing as provided by O.C.G.A. § 4-8-23, 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 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.

### **SERIOUS INJURY**

If the injury to a victim is defined under the definition of “serious injury” under the RDOL, the classification will be a “vicious” dog not “dangerous”. Serious injury was amended to include a broader range of injuries. The old law did not consider typical dog bite injuries such as “avulsions” which results in the removal of a chunk of flesh and muscle which cannot be sutured.

Furthermore, a puncture wound with a tear is a laceration or anything needing more than one suture can be classified as a serious injury. We consider multiple puncture wounds a serious injury or a puncture wound that develops into an infection. The amended new definition is: 'serious injury' means any 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.

### **REFUSING TO SURRENDER DOG POSING A PUBLIC THREAT OR SUBJECT TO CLASSIFICATION IS A VIOLATION IN ITSELF**

A dangerous or vicious dog shall be immediately confiscated by any dog control officer or by a law enforcement officer in the case of any violation of this article. A refusal to surrender a dog subject to confiscation shall be a violation of this article. And, interfering with an officer’s legitimate request supports a charge of obstruction and dog owner can be arrested. O.C.G.A. § 4-8-30 (a) A dangerous or vicious dog shall be immediately confiscated by any dog control officer or by a law enforcement officer in the case of any violation of this article. A refusal to surrender a dog subject to confiscation shall be a violation of this article.

### **WHAT IF YOU HAVE A REPEAT OFFENDER WHO CONTINUES TO VIOLATE REQUIREMENTS OR ALLOWS THEIR DOG TO ROAM FREE DESPITE REPEATED WARNINGS?**

Under O.C.G.A. § 4-8-25, the judge of any superior court of competent jurisdiction within this state may order the euthanasia of a dog if the court finds, after notice and opportunity for hearing as provided by O.C.G.A. § 4-8-23, 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 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.

**EUTHANASIA:** There are many ways in which a dog that poses a public threat may be euthanized under the RDOL. And a dog can be euthanized for the first attack under certain conditions. However, it is important to remember that euthanasia (court ordered or voluntary) or relinquishment of dog will not stay the criminal prosecution or potential civil action.

### **Scenario 1**

A dog is impounded, a notice is sent out, if owner fails to request a hearing, the dog is classified and requirements to keep the dog are set forth per the law. A written notice of those requirements is mailed to the owner. Once the requirement is met, the dog owner can get his dog back. If the owner fails to meet the requirement within the allotted time, then the dog can euthanize. If dog owner fails to request a hearing and the and it has been determined the dog is classified and should be euthanized, then a notice will be sent to the owner of that determination and the date of euthanasia.

O.C.G.A. § 4 – 8- 23

(e). Within ten days after the hearing, the authority which conducted the hearing shall mail written notice to the dog owner of its determination on the matter. If such determination is that the dog is a dangerous dog or a vicious dog, the notice of classification shall specify the date upon which that determination shall be effective. If the determination is that the dog is to be euthanized pursuant to O.C.G.A § 4-8-26, the notice shall specify the date by which the euthanasia shall occur.

### **Scenario 2**

O.C.G.A § 4-8-25.

The judge of any superior court of competent jurisdiction within this state may order the euthanasia of a dog if the court finds, after notice and opportunity for hearing as provided by O.C.G.A § 4-8-23, 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 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.

### **Scenario 3**

O.C.G.A § 4-8-26.

A dog that is found, after notice and opportunity for hearing as provided by O.C.G.A § 4-8-23, to have caused a serious injury to a human on more than one occasion shall be euthanized; provided, however, that no injury occurring before July 1, 2012, shall count for purposes of this subsection.

### **Scenario 4**

O.C.G.A § 4-8-30

(a) A dangerous or vicious dog shall be immediately confiscated by any dog control officer or by a law enforcement officer in the case of any violation of this article. A refusal to surrender a dog subject to confiscation shall be a violation of this article.

(b) The owner of any dog that has been confiscated pursuant to this article may recover such dog upon payment of reasonable confiscation and housing costs and proof of compliance with the provisions of this article. All fines and all charges for services performed by a law enforcement or dog control officer shall be paid prior to owner recovery of the dog. Criminal prosecution shall not be stayed due to owner recovery or euthanasia of the dog.

(c) In the event the owner has not complied with the provisions of this article within 20 days of the date the dog was confiscated, such dog shall be destroyed in an expeditious and humane manner and the owner may be required to pay the costs of housing and euthanasia.

## **IMPOUND/CONFISCATION/RECOVERY OF DOG**

- Upon receiving a report of a dog believed to be subject to classification in officer's jurisdiction, the dog control officer shall make such investigations as necessary to determine whether such dog is subject to classification as a dangerous dog or vicious dog.
- A law enforcement officer or dog control officer shall immediately impound a dog if the officer believes the dog poses a threat to the public safety.
- A dangerous or vicious dog shall be immediately confiscated by any dog control officer or by a law enforcement officer in the case of any violation of this law. In other words, one whose dog has already been classified or has received a conviction of any dog bite law and violates by failing to comply with requirements or allows his dog to bite again, the dog shall be immediately confiscated.
- A refusal to surrender a dog subject to confiscation shall be a violation of this article. You can charge a person for failure to comply or obstruction in some jurisdictions.
- The owner may recover such dog upon payment of reasonable confiscation and housing costs and proof of compliance. Onsite inspection is considered best practices.
- All fines and all charges for services performed by a law enforcement or dog control officer shall be paid prior to owner recovery of the dog.
- Criminal prosecution shall not be stayed due to owner recovery or euthanasia (court ordered or voluntary) or relinquishment of the dog.
- In the event the owner has not complied with the provisions of this article within 14 days\*of the date the dog was confiscated, such dog shall be released to an animal shelter, as such term is defined in O.C.G.A § 4-14-2, or euthanized in an expeditious and humane manner. The owner may be required to pay the costs of housing and euthanasia.

\*The 2104 legislative bill SB 290 reduced the 20-day period to 14 days.

### **HOW LONG CAN GOVERNMENT HOLD DOG WHEN OWNER IS KNOWN?**

In cases that do not include dogs that are euthanized, relinquished or otherwise held until case is adjudicated because the dog poses a public threat, the government must return the dog AFTER the owner has made payment of reasonable confiscation and housing costs and proof of compliance with the provisions of this article. An officer will verify owner is in compliance. In the event the owner has not complied with the provisions of this article within 14 days\*of the date the dog was confiscated, such dog shall be released to an animal shelter, as such term is defined in O.C.G.A § 4-14-2, or euthanized in an expeditious and humane manner. The owner may be required to pay the costs of housing and euthanasia.

\*The 2104 legislative bill SB 290 reduced the 20-day period to 14 days.

### **HOW LONG CAN GOVERNMENT HOLD DOG WHEN OWNER IS NOT KNOWN?**

The 2014 legislative bill (SB 290) allows jurisdiction to turn the dog over to the animal shelter or humanely euthanize the dog if an owner cannot be located within 10 days after the determination that the dog is dangerous or vicious.

### **CAN YOU FORGO CHARGING A DOG OWNER OR DROP CHARGES IF THE DOG IS RELINQUISHED OR EUTHANIZED?**

No, criminal prosecution shall not be stayed due to owner recovering the dog, euthanasia (court order or voluntary) or relinquishment of the dog. Giving the dog up does not always cure the behavior nor does it stop an owner from getting another dog and repeating the behavior. Only when consequences are experience does one typically change their behavior. This law is focused on the irresponsible owner and law enforcement should too. Would you drop charges against a bank robber if he returns the money?

## **ENFORCEMENT AUTHORITY**

### **LOCAL GOVERNMENT MUST DESIGNATE A DOG CONTROL OFFICER; COUNTIES CAN ENTER INTO AGREEMENTS FOR ENFORCEMENT**

Each local government (any county or municipality of this state) must designate one or more individuals as dog control officer(s) to aid in the administration and enforcement of the provisions of this article. A county's jurisdiction for the enforcement of this article shall be the unincorporated area of the county and a municipality's jurisdiction for such enforcement shall be the territory within the corporate limits of the municipality. Persons carrying out the duties of dog control officer shall not be authorized to make arrests unless the person is a law enforcement officer having the powers of arrest. Any county or municipality or any combination of such local governments may enter into agreements with each other for the consolidation of dog control service.

### **WHO HAS THE AUTHORITY TO RESPOND TO AN ANIMAL CASE?**

In Georgia, the responsibility governing a wide range of animal protection or animal control matters falls first to the local jurisdictions to enforce state and local laws pertaining to animals. The local police, sheriff and/or animal control officers (if the county has animal services) will be the authority in that jurisdiction handling dangerous dog issues.

If an animal is subject to a licensing requirement as a “pet dealer” or “government run animal shelter” the Georgia State Department of Agriculture (GDOA) may enforce the state regulations, but they do not enforce state criminal law and do not get involved with dangerous dog cases. In some instances, the local jurisdiction will have a criminal case involving an animal subject to a licensed pet dealer and that jurisdiction may work with the GDOA to ensure both criminal and regulatory cases are investigated. It is important to note that the GDOA expects local jurisdictions to enforce their own law and not rely on the GDOA. A regulatory agency cannot do much more than revoke, suspend or provide a consent order to a person who is subject to or is licensed as a pet dealer. See “Licensing Requirements under the Georgia by the Georgia Department of Agriculture” at [Animallawsources.org](http://Animallawsources.org)

### **WHO HAS THE AUTHORITY TO ENFORCE THE RDOL?**

The local government **shall** designate one or more individuals as dog control officer(s) which could be any of the following: police, sheriff, sheriff's deputy, animal control officer, or designated rabies control officer. If the local government designates and assigns a person under the sheriff's department with duties of dog control officer, it is recommended but not mandatory to seek consent of the sheriff. The same applies when the local government is seeking consent with the county board of health to request additional duties for rabies control officer who was appointed under O.C.G.A § 31-19-7.

### **WHO HAS BEEN DESIGNATED IN YOUR COUNTY AS THE DOG CONTROL OFFICER AND RABIES CONTROL OFFICER?**

If a county does not have an ordinance related to dangerous/vicious dogs, the state RDOL will be enforced as a state violation and the local law enforcement would respond to a case. The person violating that state law would be charged in state court under state misdemeanor charges. Your dog control officer may wear several hats and have another position like a police officer or rabies control officer.

### **WHO CAN DETERMINE WHETHER DOG WILL BE CLASSIFIED?**

The person(s) assigned as dog control officer. This person may wear different hats, be a policer or perform other duties as well.

### **WHAT ARE THE TWO MANDATED POSITIONS THAT RELATE TO DOGS IN THE STATE OF GEORGIA?**

Supplementary powers in the Georgia Constitution allow any county, municipality, or combination thereof to provide public health facilities and services including animal control but does not mandate it. However, there are two statutes that mandate a county to have a designated “dog control officer” under the Responsible Dog Owner Act (2012) and a “rabies control officer” under the Rabies Control Act. However, a designated officer can have both jobs and/or work for multiple counties. It is recommended that each county have their own for each position and those officers are trained in the laws and rules pertaining to this position. Legal Authority The Official O.C.G.A. § of Georgia Annotated (O.C.G.A.) § 4-8-22.

(a) A county's jurisdiction for the enforcement of this article shall be the unincorporated Area of the county and a municipality's jurisdiction for such enforcement shall be the Territory within the corporate limits of the municipality.

(b) The governing authority of each local government **shall designate** an individual as dog control officer to aid in the administration and enforcement of the provisions of this article (that being the 'Responsible Dog Ownership Law.'). A person carrying out the duties of dog control officer shall not be authorized to make arrests unless the person is a law enforcement officer having the powers of arrest.

(c) Any county or municipality or any combination of such local governments may enter into agreements with each other for the consolidation of dog control services.

### **GOVERNMENT MUST APPOINT A RABIES CONTROL OFFICER**

Our existing state RDOL and Rabies law mandates that each county have shall designate one or more individuals as a dog control officer(s) *and* a rabies controls officer, respectively, to carry out and enforce the RDOL or local dangerous dog laws and a rabies law. However, the person(s) so designated maybe contracted from another county who will handle several counties, or the same person may perform both those duties (dangerous dog and rabies) on a part time basis. Most large metropolitan counties have animal control officers, an animal shelter and have dedicated officers to enforce these laws.

#### **County Rabies Control Officer:**

O.C.G.A §31-19-7. County rabies control officer.

(a) The county board of health *shall appoint a person* who is knowledgeable of animals to be the county rabies control officer. It shall be the duty of the county rabies control officer to enforce this chapter and other laws which regulate the activities of dogs.

The primary responsibility for the control of rabies in Georgia rests with county boards of health. O.C.G.A. § 31-19-1 empowers and requires each county board of health to adopt and promulgate rules and regulations for the prevention and control of rabies (see pages 43-45 of the compendium). Therefore, in Georgia, the primary responsibility for the control of rabies rests with the county Boards of Health, and each county must have a mandatory Rabies Control Officer. It shall be the duty of the

county rabies control officer to enforce this chapter and other laws which regulate the activities of dogs.

## **DUE PROCESS**

### **WHEN DOES A DOG OWNER NEED TO REQUEST A HEARING?**

Under the 2014 legislative amendments made to the RDOL (SB 290), the time limit to request a hearing from 15 days was changed to 7 days. The date starts from the date of notice.

### **AFTER DETERMINATION OF CLASSIFICATION, THEN WHAT?**

When a dog control officer determines that a dog is subject to classification as a dangerous dog or vicious dog, the dog control officer shall mail a dated notice to the dog's owner within 72 hours. Such notice shall include a summary of the dog control officer's determination and shall state that the owner has a right to request a hearing from the authority on the dog control officer's determination within 7 days after the date shown on the notice. The notice shall also provide a form for requesting the hearing and shall state that if a hearing is not requested within the allotted time, the dog control officer's determination shall become effective for all purposes under this article.

When a hearing is requested by a dog owner, such hearing shall be scheduled within 30 days after the request is received; provided, however, that such hearing may be continued by the authority (Animal Board, Board of Health or Probate Court) for good cause shown. At least 10 days prior to the hearing, the authority conducting the hearing shall mail to the dog owner written notice of the date, time, and place of the hearing. At the hearing, the dog owner shall be given the opportunity to testify and present evidence and the authority conducting the hearing shall receive other evidence and testimony as may be reasonably necessary to sustain, modify, or overrule the dog control officer's determination.

Within ten days after the hearing, the authority which conducted the hearing shall mail written notice to the dog owner of its determination on the matter. If such determination is that the dog is a dangerous dog or a vicious dog, the notice of classification shall specify the date upon which that determination shall be effective. If the determination is that the dog is to be euthanized pursuant to O.C.G.A. § Section 4-8-26, the notice shall specify the date by which the euthanasia shall occur. Judicial review of the authority's final decision is allowed, see below.

### **WHO CAN CONDUCT HEARINGS?**

An Animal Control Board, Board of Health or Probate Court. A statewide goal is to have uniformity in procedures involving these cases, however hearing procedures vary in jurisdictions. The Georgia state law allows hearings in the jurisdiction where the bite/attack occurred either through an Animal Control Board or Local Board of Health, as determined by the governing authority of a local government to conduct hearings or if no board exist, then Probate Court (this option was added by a 2104 legislative bill SB 290).

Having the choice between an Animal Board, Local Board of Health or Probate Court in the county or city where the attack/bite occurred is necessary because approximately 30 % of our counties do not have animal control, animal ordinances or animal shelters. That means, those counties do not have well-structure plans to handle stray animals or dangerous dog issues. Still, the counties that do have animal control do not have an animal board or organized board of health to hear these cases.

Some counties charged under local ordinance and the case goes straight to magistrate court. It is treated just like any other citation and the magistrate judge conducts the case (there is no board).

### **JUDICIAL REVIEW OF ANIMAL CONTROL BOARD OR BOARD OF HEALTH DECISIONS**

In 2014, the RDOL was amended (SB 290) to allow the final review (aka judicial review) of a decision made by an animal control board or health board to lie with probate court, rather than superior court or Fulton County. Judicial review of the authority's final decision may be had in accordance with O.C.G.A. § 15-9-30.9 (probate court)

O.C.G.A. § 15-9-30.9.

(a) In addition to any other jurisdiction vested in the probate courts, such courts shall have the right and power to hear cases of violations of Article 2 of Chapter 8 of Title 4 and to impose:

- (1) Civil penalties for such violations, other than euthanasia; and
- (2) Criminal penalties for such violations as provided by O.C.G.A. § 4-8-32.

(b) An appeal from a decision by an animal control board or local board of health pursuant to subsection (f) of O.C.G.A. § Section 4-8-23 shall lie in probate court. No appeal shall be heard in probate court until costs which have accrued in the tribunal below have been paid, unless the appellant files with the probate court or with the tribunal appealed from an affidavit stating that because of indigence he or she is unable to pay the costs on appeal. In all cases, no appeal shall be dismissed in the probate court because of nonpayment of the costs below until the appellant has been directed by the court to do so and has failed to comply with the court's direction.

(c) Filing of the notice of appeal and payment of costs or filing of an affidavit as provided in subsection (b) of this O.C.G.A. § section shall act as supersedeas, and it shall not be necessary that a supersedeas bond be filed; provided, however, that the probate court upon motion may at any time require that supersedeas bond with good security be given in such amount as the court may deem necessary unless the appellant files with the court an affidavit stating that because of indigence he or she is unable to give bond."

### **COST MUST BE PAID PRIOR TO FILING APPEAL TO PROBATE COURT, SOME INDIGENT EXCEPTIONS**

No appeal shall be heard in probate court until costs which have accrued in the tribunal below have been paid, unless the appellant files with the probate court or with the tribunal appealed from an affidavit stating that because of indigence he or she is unable to pay the costs on appeal. In all cases, no appeal shall be dismissed in the probate court because of nonpayment of the costs below until the appellant has been directed by the court to do so and has failed to comply with the court's direction.

(c) Filing of the notice of appeal and payment of costs or filing of an affidavit as provided in subsection (b) of this O.C.G.A. § section shall act as supersedeas, and it shall not be necessary that a supersedeas bond be filed; provided, however, that the probate court upon motion may at any time require that supersedeas bond with good security be given in such amount as the court may deem necessary unless the appellant files with the court an affidavit stating that because of indigence he or she is unable to give bond."

### **JUDICIAL REVIEW OF PROBATE COURT DECISIONS**

Final decisions (aka judicial review) of a decision made by a Probate court shall end in Superior court pursuant to O.C.G.A. § 5-3-2. Right to appeal from probate courts; exception:

(a) An appeal shall lie to the superior court from any decision made by the probate court, except an order appointing a temporary administrator.



(b) Notwithstanding subsection (a) of this O.C.G.A. § section, no appeal from the probate court to the superior court shall lie from any civil case in a probate court which is provided for by Article 6 of Chapter 9 of Title 15.

### **WHAT ABOUT CLASSIFICATIONS OCCURING BEFORE JULY 1, 2012**

Any dog classified prior to July 1, 2012, and Pending Proceedings on July 1, 2012 as a potentially dangerous dog in this state shall on and after that date be classified as a dangerous dog under this article. Any dog classified prior to July 1, 2012, as a dangerous dog or vicious dog in this state shall on and after that date be classified as a vicious dog under this article. The owner of any dog referred above shall come into compliance with all current provisions of this article by January 1, 2013. This Act shall become effective on July 1, 2012, and shall apply to proceedings for the classification and registration of dogs which are pending on that date as well as to such proceedings which arise on or after that date.

## **EXEMPTIONS**

### **EXEMPTIONS**

Exemptions under the RDOL include: No dog shall be classified as a dangerous dog or vicious dog for actions that occur while the dog is being used by a law enforcement or military officer to carry out the law enforcement or military officer's official duties. No dog shall be classified as a dangerous dog or a vicious dog if the person injured by such dog was a person who, at the time, was committing a trespass, was abusing the dog, or was committing or attempting to commit an offense under Chapter 5 of Title 16.

No person shall perform a cruel act on any dog; nor shall any person harm, maim, or kill any dog, or attempt to do so, except that a person may:

- (1) Defend his or her person or property, or the person or property of another, from injury or damage being caused by a dog; or
- (2) Kill any dog causing injury or damage to any livestock, or poultry, or pet animal.

If that the victim was abusing the dog just before getting bit (not days later), then there is an exemption in the law for that. If the dog had on previous occasion gotten out and attacked or chased, showing a history of this, then a classification is warranted.

If one has to defend themselves from an attack, the threat must be "imminent". An example of a non-imminent case would be someone shooting a dog on their property after going inside their home, loading a gun and then returning to shoot the dog. If the dog was threatening a person or dammging proepty

### **TRESSPASS**

A child under a certain age may not understand "trespass" so these cases need to be carefully examined. And, other charges may be considered like "child neglect" or "negligent supervision of a minor". Speaking to your prosecutor is recommended. Also, those people who, in the performance of their job, have a right to be on a dog owner's property are not considered trespassers. For example, meter reader, postal worker, and utility employee in the performance of their job.

## **EXCUSES COMMONLY GIVEN**

*"It is not my dog; it is my son's (a minor) dog"*

The definition of owner was amended to include "in the case of a dog owned by a minor, the term "owner" includes the parent or person in loco parentis with custody of minor.

*"It is not my dog. I am just watching it for a friend":*

Owner can include anyone possessing, harboring, keeping, or having custody or control of a dog.

Note, the law is silent on time period one becomes in control or custody of an animal. Be careful with pet sitters.

*"My dog doesn't bite. He is sweet"*

Anything with teeth (or a beak) can bite. Even sweet dogs can bite if they are sick or scared. Check microchips and interview witness and check vet records to see who owns the dog. If owner claims the dog was provoked, do a thorough investigation, and understand provocation. If a guardian/adult/parent allows a child twist a dog's ear, you may have negligence supervision charges or child endangerment.

## **NO DEFENSE IF:**

Any irregularity in classification proceedings shall not be a defense to any prosecution under this article so long as the owner of the dog received actual notice of the classification and did not pursue a civil remedy for the correction of the irregularity.

## **GOVERNMENT IMMUNITY**

Under 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. Note, this does not relate to a shelter adopting out dangerous dogs. Georgia appellate case law confirmed this in 2019. For a copy visit [www.animallawsoure.org](http://www.animallawsoure.org)

## **AMENDMENTS OF 2014**

### **WHAT DID THE AMENDMENTS ADD?**

**Allows jurisdictions to have one or more officers to carry out this law (line 17 through 22 of bill)**

"(b) The governing authority of each local government shall designate ~~an individual~~ one or more individuals as dog control ~~officer~~ officers to aid in the administration and enforcement of the provisions of this article. An individual ~~A person~~ carrying out the duties of dog control officer shall not be authorized to make arrests unless ~~the person~~ he or she is a law enforcement officer having the powers of arrest."

**Shortens the time from 15 to 7 days that a classified dog owner can request a hearing (lines 36 – 41 of bill)**

(c) When a dog control officer determines that a dog is subject to classification as a dangerous dog or vicious dog, the dog control officer shall mail a dated notice to the dog's owner within 72 hours. Such notice shall include a summary of the dog control officer's determination and shall state that the owner has a right to request a hearing from the authority on the dog control officer's determination within ~~15~~ seven days after the date shown on the notice.

**Allows for jurisdiction to use probate court for these hearings if they do not have a functioning animal control board or health board set up for these hearings (lines 41 through 44 of bill).**

provided, however, that if an authority has not been established for the jurisdiction, the owner shall be informed of the right to request a hearing from the probate court for such jurisdiction where the dog was found or confiscated within seven days after the date shown on the notice.

**Allows jurisdiction to turn the dog over to the animal shelter or humanely euthanize it if an owner cannot be located within 10 days after the determination that the dog is dangerous or vicious (lines 47 through 50 of bill).**

If an owner cannot be located within ten days of a dog control officer's determination that a dog is subject to classification as a dangerous dog or vicious dog, such dog may be released to an animal shelter or humanely euthanized, as determined by the dog control officer.

**Shorten the time from 20 to 14 days that a classified dog owner has to comply with requirements and if owner fails to comply within 14 days of confiscation, the dog can be released to an animal shelter or euthanized humanly and owner may be required to pay cost of housing and euthanize, on lines 84 through 88**

(c) In the event the owner has not complied with the provisions of this article within ~~20~~ 14 days of the date the dog was confiscated, such dog shall be ~~destroyed~~ released to an animal shelter, as such term is defined in O.C.G.A. § Section 4-14-2, or euthanized in an expeditious and humane manner ~~and the~~. The owner may be required to pay the costs of housing and euthanasia."

**Repaired a flaw about final decisions. The final review (aka judicial review) of a decision made by an animal control board or health board shall lie with probate court, rather than superior court or Fulton County (lines 66 through 69 of bill)**

(f) Judicial review of the authority's final decision may be had in accordance with O.C.G.A. § Section ~~50-13-19~~ 15-9-30.9 (probate court)

**"15-9-30.9.**

**Lines 103 through 121**

(a) In addition to any other jurisdiction vested in the probate courts, such courts shall have the right and power to hear cases of violations of Article 2 of Chapter 8 of Title 4 and to impose:

(1) Civil penalties for such violations, other than euthanasia; and

(2) Criminal penalties for such violations as provided by O.C.G.A. § Section 4-8-32.

(b) An appeal from a decision by an animal control board or local board of health pursuant to subsection (f) of O.C.G.A. § Section 4-8-23 shall lie in probate court. No appeal shall be heard in probate court until costs which have accrued in the tribunal below have been paid, unless the appellant files with the probate court or with the tribunal appealed from an affidavit stating that because of indigence he or she is unable to pay the costs on appeal. In all cases, no appeal shall be dismissed in the probate court because of nonpayment of the costs below until the appellant has been directed by the court to do so and has failed to comply with the court's direction.

(c) Filing of the notice of appeal and payment of costs or filing of an affidavit as provided in subsection (b) of this O.C.G.A. § section shall act as supersedeas, and it shall not be necessary that a supersedeas bond be filed; provided, however, that the probate court upon motion may at any time require that supersedeas bond with good security be given in such amount as the court may deem

necessary unless the appellant files with the court an affidavit stating that because of indigence he or she is unable to give bond."

### **Final decisions (aka judicial review) of a decision made by a Probate court shall end in Probate court pursuant to O.C.G.A. § Section 5-3-2**

§ 5-3-2. Right to appeal from probate courts; exception

(a) An appeal shall lie to the superior court from any decision made by the probate court, except an order appointing a temporary administrator.

(b) Notwithstanding subsection (a) of this O.C.G.A. § section, no appeal from the probate court to the superior court shall lie from any civil case in a probate court which is provided for by Article 6 of Chapter 9 of Title 15.

### **Non-Surgical Neutering.**

While this is unrelated to the RDOL, it was added as a piggyback during the legislative session. Piggy backing is a strategy used by lawmakers to get other bills passed when the original bill failed. This amendment allows for non-surgical spay/neuter by intratesticular injection aka Zuetering. As technology advances, so needs the law. GA. Veterinarian Medical Association has agreed to the language. This method of neutering will have a profound effect on the pet overpopulation. Lines 94 through 97, O.C.G.A. § Section 4-14-2, relating to definitions, as follows:"(5) 'Sterilization' means rendering a dog or cat unable to reproduce by the surgical removal of the its reproductive organs of a dog or cat in order to render the animal unable to reproduce or by rendering a dog unable to reproduce by intratesticular injection approved by the federal government pursuant to 21 U.S.C. Section 360 as of March 7, 2014."

### **NOTES TO REMEMBER**

- Remember, a dog that bites multiple people in one attack should be classified a vicious dog. And multiple puncture wounds would be considered "serious injury" therefore a viscous classification..
- Reclaim fees should increase sharply for repeat offenders. Annual registration fees should not be too low.
- Check to see if person is violating zoning laws. Are they operating a kennel or dog training faculty?

### **OTHER CRIMINAL CHARGES TO CONSIDER IN ADDITION TO A VIOLATION OF THE RDOL**

- Dog at Large – This is very helpful to the victim in proving liability in a civil case. The civil dog bite statute specifies under O.C.G.A. § 51-2-7, it shall be sufficient to show that the animal was required to be at heel or on a leash by an ordinance of a city, county, or consolidated government, and the said animal was at the time of the occurrence not at heel or on a leash.
- Failure to provide *proof* of rabies vaccination
- Failure of rabies vaccination
- Child Endangerment – parents leaving child unattended or putting child in contact with dog (every case will vary)
- Negligent Supervision – unattended child left in presence of dog, parent, or adult not supervision child or asleep, etc., (every case will vary)
- Reckless Conduct – overall recklessness by owner (this was successfully used on owner who allowed his dog to roam and chase his neighbors even though the dog did not bite anyone)

- Interfering with Law Enforcement - Obstruction
- Nuisance & Zoning Violations
- Animal Cruelty – Georgia appellate case law allowed a dog owner to be convicted of animal cruelty because his dog kept getting out and killing neighbors’ pets.
- Aggravated Assault – when using dog as a weapon
- Manslaughter
- Murder – using an animal as a weapon and person is killed

## **SENTENCING OPTIONS**

On top of the requirements, fines, and costs, consider adding:

- Victim’s restitution. If it cannot be paid in on lump sum, place dog owner on probation and have them pay into the court monthly until restitution is paid.
- Require microchipping of “all” classified dogs. The original legislative bill had this in, but lobbyist pulled it out making it a requirement for vicious dogs only. Microchipping is cheap and it is considered a basic pet ownership responsibility.
- Spay neuter requirements for both dangerous and vicious dogs. At the very least, spay/neuter a vicious dog.
- Increase insurance requirements. Many victims of severe mauling endure medical bills much higher than 50K. Many dog owners do not have insurance, so the victim is not only injured physically but financially too. Many irresponsible dog owners rent homes or apartments and do not carry liability insurance. It is exceedingly difficult to tap into the landlord’s insurance under Georgia’s civil dog bite statute. Most attorneys will NOT take personal injury cases for dog bites if there is no insurance. It is always recommended that any victim receive restitution in the criminal courts because there is most likely no coverage for a civil matter. Because of this, the insurance requirement should be higher in your ordinance. Some GA ordinances have one million for a dog that severely injures a person (West Point, Cherokee County are among those).
- Consider requesting the judge to order the dog owner pay into the court the cost of care every month while the case is pending if the dog is impounded housed at a government run shelter. While the Cost of Animal Care Bond Law (COACB) O.C.G.A § 4-11-9.8, considered animals subject to cruelty and dog fighting, the concept is the same. Why should taxpayers pay for the housing cost? More on the COACB law at [www.animallawsource.org](http://www.animallawsource.org)
- Require the enclosure to have a fence cemented into ground and cover so there is no change for escape.
- Do not allow the garage or screen in porches as the dog’s enclosure
- No flexi-leases or no electric fences allowed.
- Dog owner to attend an obedience training course and proof of completion
- Homeowner’s association, apartment owner or landlord approval letter indicating they have been notified that there will be classified living in their neighborhood or home, or apartment and they have approved it.

## **CIVIL VIOLATIONS**

**LIABILITY FOR DAMAGE CAUSED BY DOGS, CIVIL** under Title 4, The owner or, if no owner can be found, the custodian exercising care and control over any dog which , while off the owner's or custodian's property causes injury, death, or damage directly or indirectly to any livestock, or poultry,

or pet animal or for any damage to public or private property, the owner shall be civilly liable. And, there is no intent to do away with eliminate or limit other causes of action which might inure to the owner of any livestock, or poultry, or pet animal.

**O.C.G.A. § 4-8-4. Civil Liability found under the Responsible Dog Owner Act**

(a) The owner or, if no owner can be found, the custodian exercising care and control over any dog which while off the owner's or custodian's property causes injury, death, or damage directly or indirectly to any livestock, poultry, or pet animal shall be civilly liable to the owner of the livestock, poultry, or pet animal for injury, death, or damage caused by the dog. The owner or, if no owner can be found, the custodian exercising care and control over any dog shall be liable for any damage caused by such dog to public or private property. The liability of the owner or custodian of the dog shall include consequential damages.

(b) This O.C.G.A. § section is to be considered cumulative of other remedies provided by law. There is no intent to eliminate or limit other causes of action which might inure to the owner of any livestock, poultry, or pet animal."

**CIVIL DOG BITE LAW**

Possible civil remedies for victims can be found under various legal theories. But it is important to know the civil dog bite statute becomes a strict liability when the facts of the case support the idea that local "dog at large" ordinance could be violated.

- Dog Bite Statute O.C.G.A. § 51-2-7
- Premise Liability
- Negligence Per Se
- Negligence
- Attractive Nuisance Doctrine"
- Failure to perform a volunteer duty
- Putting a dangerous dog in the stream of commerce
- Children under certain – can they trespass?
- Negligent supervision/ parent – (adult places children in the vicinity of dogs and child gets hurt)
- Nuisance
- Intentional Tort – someone uses dog as a weapon to harm another

**O.C.G.A. § 51-2-7, Vicious or Dangerous Dog Bite Civil Statute**

A person who owns or keeps a vicious or dangerous animal of any kind and who, by careless management or by allowing the animal to go at liberty, causes injury to another person who does not provoke the injury by his own act may be liable in damages to the person so injured. In proving vicious propensity, it shall be sufficient to show that the animal was required to be at heel or on a leash by an ordinance of a city, county, or consolidated government, and the said animal was at the time of the occurrence not at heel or on a leash. The foregoing sentence shall not apply to domesticated fowl including roosters with spurs. The foregoing sentence shall not apply to domesticated livestock.

**O.C.G.A. § 51-2-6. Dogs, liability of owner or keeper for injuries to livestock**

If any dog, while not on the premises of its owner or the person having charge of it, kills or injures any livestock, the owner or person having charge of the dog shall be liable for damages sustained by the killing or maiming of the livestock and for the full costs of action.

\*Note O.C.G.A. § 4-8-4 was amended in 2012 as part of the criminal dangerous dog law renamed the “Responsible Dog Owner Act” and although it seems to usurp the O.C.G.A. § 51-2-6, the legislature failed to repeal or replace O.C.G.A. § 51-2-6. The main addition is the liability of owners whose dog attacks a third party’s pet animal as well as livestock and poultry.

### **FINGER PRINTING OFFENDER UNDER RDOL**

In a December 18, 2012 Official Attorney General’s Opinion 2012-6, It states: an opinion was sought concerning whether any of the following misdemeanor offenses enacted during the 2012 Session of the General Assembly should be designated as offenses for which persons charged with violations are to be fingerprinted.

Those offenses, among many others in the request for opinion, include: O.C.G.A. § 4827 (Registration Requirements for Dog Classified as Dangerous or Vicious); O.C.G.A. § 4828 (Notification Requirements for Owner of Classified Dog); O.C.G.A. § 4829 (Restraint Requirements for Dangerous Dogs); O.C.G.A. §101351. In addition to the list of finger printable offenses mandated by statute, O.C.G.A. § 33333(a) (1)(A)(v) provides that the Attorney General may designate any other offense as one for which those charged with violations are to be fingerprinted. The first misdemeanor offense is O.C.G.A. § 4827.

That O.C.G.A. § section provides that it shall be a misdemeanor to possess a dog classified as dangerous or vicious within this state without a certificate of registration, which must be renewed on an annual basis. I hereby designate any misdemeanor offenses arising under O.C.G.A. § 4827 as offenses for which those charged are to be fingerprinted.

The second misdemeanor offense is O.C.G.A. § 4828. That O.C.G.A. § section provides that it shall be a misdemeanor for an owner of a classified dog to fail to notify animal control if the dog is on the loose or has attacked a human, has a new owner, or moves to a different jurisdiction within the State. I hereby designate any misdemeanor offenses arising under O.C.G.A. § 4828 as offenses for which those charged are to be fingerprinted.

The third misdemeanor offense is O.C.G.A. § 4829. That O.C.G.A. § section provides that it shall be a misdemeanor of a high and aggravated nature for an owner of a dangerous dog to fail to restrain a dangerous dog while off the owner’s premises as set forth in subsections (a) (1) through (a) (3) of that O.C.G.A. § section and as set forth in subsections (b) (1) (A) and (b) (1) (B) while on the owner’s property. I hereby designate any misdemeanor offenses arising under O.C.G.A. § 4829 as offenses for which those charged are to be fingerprinted.

## **SUGGESTED LOCAL ORDINANCE**

### **DEFINITIONS:**

*Dangerous dog* means any dog that.

- (1) Causes a substantial puncture of a person's skin by teeth without causing serious injury; provided, however, that a nip, scratch, or abrasion caused by a dog under control of its owner and not at large shall not be sufficient to classify a dog as dangerous under this subparagraph;
- (2) 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 injury occurs; provided, however, that the acts of barking, growling, or showing of teeth by a dog under control of its owner and not at large shall not be sufficient to classify a dog as dangerous under this subparagraph; or
- (3) While off the owner's property, kills or injures a pet animal; provided, however, that this subparagraph shall not apply where 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 and owner has upon him a valid hunting licenses and proof of vaccinations.
- (4) No dog shall be classified as a dangerous dog or vicious dog for actions that occur while the dog is being used by a law enforcement or military officer to carry out the law enforcement or military officer's official duties. No dog shall be classified as a dangerous dog or a vicious dog if the person injured by such dog was a person who, at the time, was committing a wilfull trespass, was abusing the dog, or was committing or attempting to commit a crime.

*Nuisance animal* means an animal that:

- (1) Is dangerous or detrimental to human life or health
- (2) Renders or tends to render the soil, air, water, or food impure or unwholesome, or unreasonably offend,
- (3) Can go upon the property of another person other than its owner or keeper without the express consent of such other property owner or occupant; or
- (4) Chases or acts to menace pedestrians or other persons using public ways:
- (5) Is repeatedly at large; or
- (6) Trespasses on school grounds.

*Proper enclosure* means an enclosure that meets all the following criteria:

- (1) A structure which is suitable to prevent the entry of young children and to prevent the dog from escaping.
- (2) A structure with secure sides and a secure top attached to all sides.
- (3) A structure whose sides are so constructed at the bottom to prevent the dog's escape by digging under the sides. The sides must either be buried two feet into the ground or sunken into a concrete pad.
- (4) A structure which provides appropriate protection from the elements for the dog. The structure must contain adequate shelter inside it.



- (5) A structure which is inside a perimeter or area fence.
- (6) The gate to the structure shall be of the inward-opening type and shall be kept locked except when tending to the animal's needs such as cleaning the kennel or providing food and water.

*Serious injury* means any physical injury that creates a substantial risk of death; results in death, broken or dislocated bones, lacerations requiring multiple sutures, or disfiguring avulsions, significant puncture wounds; requires plastic surgery or admissions to a hospital; or results in protracted impairment of health, including transmission of an infectious or contagious disease or impairment of the function of any bodily organ

*Vicious dog* means any dog that:

- (1) inflicts serious injury on a person or causes serious injury to a person resulting from reasonable attempts to escape from the dog's attack; or
- (2) in the opinion of a judge, presents a threat of serious harm to other animals or humans; or
- (3) has previously attacked or bitten a human or injured a pet animal or and has attacked or bitten a human or pet animal for second time; or
- (4) has been previously classified as a dangerous dog and has attacked or bitten a human or pet animal for second time.

## **OFFENSES**

### **Sec XXXXX (X) - Limitation on ownership.**

(a) Any person who has been convicted of cruelty, neglect, abandonment of an animal as provided in this chapter or has been required to or voluntarily relinquished ownership of such animal, may not own, possess, or have on his premises in XXXXXX County any animal for one year from the date of conviction. A nolo contendere plea is considered a conviction for the purpose of this section. Nothing in this section shall prohibit the court from imposing a greater length of time.

(b) Any person who has been convicted of failure to keep an animal under restraint while on the owner's property as provided in this chapter and has been required to provide additional confinement requirements and has not complied with the court's order, may not be allowed to own a pet in their XXXXXX County household for one year from the date of conviction.

### **Sec. XXXXX. Running at large.**

- (a) *Generally.* Within the unincorporated area of XXXXXX County or within any municipality in XXXXXX County which has or may enter into an agreement with XXXXXX County for animal control services, the running at large of dogs, domestic animals, livestock, owned wildlife, exotic animals, nuisance animal, classified or guard dog is prohibited, with the exception of cats. Owners of wildlife or exotic animals must have the necessary state and/or federal permits on their person when transporting their animals.

- (b) (1) *Dogs.* It shall be unlawful for the owner, custodian or harbinger of any dog to allow or permit such dog to leave the premises of the owner or other person having custody of the dog unless such dog is restrained by a leash not to exceed six feet in length and is under the immediate physical control of a person capable of preventing the dog from engaging any other human or animal when necessary.

Dogs must be confined to the premises of the owner or other person having custody of the dog and shall be restrained by means of a fence or wall or other enclosure, or restrained individually by a leash or chain while the dog is attended by its owner, custodian, or harbinger.

Excluded are those dogs participating in or training for obedience trials, field trials, dog shows, tracking work, or law enforcement. Also, the requirements of this subsection shall not apply in any area zoned for agriculture where the owner or person having custody of the dog is at the time in question using the dog for hunting purposes, and has on his/her person a valid hunting license and proof of vaccination.

(2) An electronic confinement system shall be considered an acceptable enclosure when the equipment is properly maintained and in continuous working order, and the animal to be contained within wears the appropriate electronic collar when within the system perimeters.

(3) In cases where an animal has been deemed a nuisance animal two or more times, has been classified as a dangerous or vicious dog, is a guard dog or being trained to be a guard dog, an electronic animal confinement system shall not be used as either the primary or secondary enclosure.

(4) Individuals who contain an animal by means of an electronic animal confinement system and are found to be in violation of this section or have been deemed as restraining an animal that has been deemed a nuisance animal two or more times, has been classified as a dangerous or vicious dog, is a guard dog or being trained to be a guard dog, shall thereafter restrain the animal by means of a fence, wall or other enclosure, or such animal shall be restrained individually by a leash or chain while the dog is attended by its owner, custodian or harbinger.

(5) It shall be unlawful for the owner, custodian, or harbinger of any dog to restrain or anchor such animal by means of a tether. Notwithstanding the prior sentence, a dog may be temporarily restrained by means of a tether while the dog is attended by its owner, custodian, or harbinger.

(6) Any tether used to temporarily confine a dog while attended by its owner, custodian, or harbinger as provided in subsection (5), above, must be attached to a properly fitted collar or harness and shall not be wrapped directly around the dog's neck. Such tethers shall not be excessively heavy or weighted to inhibit the dog's movement.

(c) *Restraint of domestic animals, livestock, owned wildlife and exotic animals.* It shall be unlawful for the owner, custodian, or harbinger of any domestic animal, livestock, wildlife, or exotic animal, to allow or permit such animal to leave the premises of the owner or other person having custody of such unless securely under leash, in a carrying case, or restrained by some other means and under the immediate physical control of a person capable of preventing the animal from engaging any other human or animal when necessary, with the exception of cats. See specific requirements for classified dogs under section

(d) *Confinement of domestic animals, livestock, owned wildlife, exotic animals, and nuisance animal, classified dog, or commercial guard dog.* Domestic animals, livestock, owned wildlife, exotic animals, an animal that has been deemed a nuisance two or more times, has been classified as a dangerous or vicious dog, is a guard dog or being trained to be a guard dog, shall be securely confined to the premises of the owner or other person having custody of such by means set forth under the provisions of this article, or approved by the XXXXXX County Government, Georgia State Health Department, or their designee and/or as required by state or federal regulations, with the exception of cats.

**Sec. XXXXX. Dangerous and Vicious Dog (or name it “Responsible Dog Owner”)**

A person carrying out the duties of an animal control officer shall not be authorized to make arrests unless the person is a law enforcement officer having the powers of arrest.

(1) Upon receiving a report of a dog believed to be subject to classification as a dangerous dog or vicious dog, the animal control officer shall make such investigations as necessary to determine whether such dog is subject to classification as a dangerous dog or vicious dog. Each animal control officer is authorized to make such investigations and inquiries as may be necessary to identify dangerous and vicious dogs and their owners. A law enforcement officer or dog control officer shall immediately impound a dog if the officer believes the dog poses a threat to the public safety.

(2) When an animal control officer classifies a dog as a dangerous dog or a vicious dog, the animal control officer shall per state law notify the dog's owner in writing by certified mail or statutory overnight delivery to the owner's last known address of such. Such notice shall be dated and deemed complete upon its mailing.

**(b) Procedures.**

(1) As applied to the owners of dangerous and vicious dogs, the procedures provided for in this section shall not be an essential element of any crime provided for in this article.

(2) When a dangerous dog or a vicious dog is classified as such, the animal control officer shall notify the dog's owner of such in writing mailed within 72 hours.

(3) The notice to the owner shall meet the following requirements:

a. The notice shall be in writing and mailed by certified mail to the owner's last known address.

b. The notice shall include a summary of the animal control officer's findings that formed the basis for the dog's classification as a dangerous dog or vicious dog.

c. The notice shall be dated and shall state that the owner, within 15 days after the date shown on the notice, has a right to request a hearing on the animal control officer's determination that the dog is a dangerous dog or vicious dog;

d. The notice shall state that the hearing, if requested, shall be before the XXXXXXXX.

e. The notice shall state that if a hearing is not requested, the animal control officer's determination that the dog is a dangerous dog or a vicious dog will become effective for all purposes under this section on a date specified in the notice, which shall be after the last day on which the owner has a right to request a hearing; and

f. The notice shall include a form to request a hearing before the mayor and council and shall provide specific instructions on mailing or delivering such request to the agency.

(4) When the XXXXXXXX receives a request for a hearing as provided in this section, it shall schedule such hearing within 30 days after receiving the request. The XXXXXXXX

shall notify the dog owner in writing by certified mail of the date, time and place of the hearing, and such notice shall be mailed to the dog owner at least ten days prior to the date of the hearing. At the hearing, the owner of the dog shall be given the opportunity to testify and present evidence and in addition thereto the XXXXXXXX shall receive such other evidence and hear such other testimony as the XXXXXXXX may find reasonably necessary to make a determination either to sustain, modify or overrule the animal control officer's classification of the dog.

(5) Within ten days after the date of the hearing, the XXXXXXXX shall notify the dog owner in writing by certified mail of its determination on the matter. If such determination is that the dog is a dangerous dog or a vicious dog, the notice shall specify the date upon which that determination is effective.

(6) A dog that is found, after notice and opportunity for hearing as provided for hereinabove, to have caused a serious injury to a human on more than one occasion shall be euthanized; provided, however, that no injury occurring before July 1, 2012, shall count for purposes of this subsection.

*(c) Requirements.*

(1) It is unlawful for an owner to have or possess within the county, a dangerous dog or vicious dog without a registered dog certification issued in accordance with the provisions of this section. Certificates of registration shall be nontransferable and shall only be issued to a person 18 years of age or older. No more than one certificate of registration shall be issued per domicile. Only one classified dog may occupy any premise which the dog is kept at any time. Classifications are permanent until the death of the dog. No certificate of registration shall be issued to any person who has been convicted of two or more violations of this article. No person shall be the owner of more than one vicious dog. In addition to the requirements otherwise specified, no owner may keep a dangerous or vicious dog within 200 yards of any structure or manmade improvement that is an aquatic center, church, convenience store, day care, grocery store, hospital, humane society, library, nursing home, park, playground, restaurant, school, skilled nursing unit, or walking trail, due in part to these areas being frequented by children and senior citizens, and in some cases, having food present. No certificate of registration for a vicious dog shall be issued to any person who has been convicted of: a serious violent felony as defined in [O.C.G.A.] § 17-10-6.1 or a felony of dog-fighting as provided for in [O.C.G.A.] § 16-12-37 or the felony of aggravated cruelty to animals as provided for in [O.C.G.A.] § 16-12-4; or a felony involving trafficking in cocaine, illegal drugs, marijuana, methamphetamine, or ecstasy as provided for in [O.C.G.A.] §§ 16-13-31 and 16-13-31.1, from the time of conviction until two years after completion of his or her sentence, nor to any person residing with such person.

(2) The animal control officer shall issue a registered dog license to a qualified owner of such dog if the owner presents to the animal control officer or the animal control officer otherwise finds enough evidence of:

(a). The owner has maintained an enclosure designed to securely confine the dangerous or vicious dog on the owner's property, indoors, or in a securely locked and enclosed pen, fence, or structure suitable to prevent the dog from leaving such property, humanely enclosed within a house, building, fence, locked pen, or other enclosure out of which it cannot climb, dig, jump, or otherwise escape on its own volition. Such enclosure must be securely locked at any time the animal is left unattended so

that children are prevented from entry and to prevent the dangerous or vicious dog from escaping. The owner shall not permit it to run at large or permit it to run loose on or within the premises of such person in such a manner as to endanger the life or limb of any person lawfully entering such premises.

(b) For owners of a dangerous or vicious dog whose animal lives out-of-doors, a portion of their property should be fenced with a perimeter or area fence. Within this perimeter fence, the dangerous or vicious dog must be humanely confined inside a locked pen or kennel of adequate size. The pen or kennel may not share common fencing with the area or perimeter fence. The kennel or pen must have secure sides, a secure top attached to all sides, the sides must be securely set into the ground or onto a concrete pad, or securely attached to a wire bottom. The gate to the kennel must be locked when the animal is unattended. This enclosure shall provide protection from the elements No dangerous or vicious dog shall be chained, tethered, or otherwise tied while unattended by the owner or custodian to any inanimate object such as a tree, post, or building, outside of its primary enclosure; and

(c). The posting of all entrances to the premises where the dangerous dog or vicious dog is located with clearly visible signs warning that there is a dangerous or vicious dog on the property and containing a symbol designed to inform children of the presence of a dangerous or vicious dog.

(d). In addition to the requirements otherwise specified by this O.C.G.A. § section and O.C.G.A. § 4-8-27, a certificate of registration for a dangerous or vicious dog shall be issued only if the dog control officer determines that the dog has been both sterilized and microchipped that is injected under the skin between the shoulder blades of the dog that is capable of being scanned and containing an identification number, the owners name, current address and contact information; and

(e) The owner maintains and can provide proof of general or specific liability insurance in the amount of at least \$50,000.00 for a dangerous dog and \$300,000 for a vicious dog issued by an insurer authorized to transact business in this state insuring the owner of the dangerous or vicious dog against liability for any bodily injury or property damage caused by the dog.*(note some counties in Georgia have \$100,000 for dangerous and 1,000,000 for vicious for minimum insurance requirement ensuring their communities are safe).*

3) The owner of a dangerous or vicious dog shall notify the animal control officer within 24 hours if the dog is on the loose, in unconfined, has attacked a human or another pet animal, or has died. If a dangerous dog has been sold or donated, the classifications stays with the dog and original owner shall also provide the animal control officer with the name, address and telephone number of the new owner of the dog. The owner who transfers the dangerous dog to another person must disclose the dangerous classification of the dog and circumstances of the classification to anyone receiving or handling the dog.

(a)A vicious dog shall not be transferred, sold, or donated to any other person unless it is relinquished to a governmental facility or veterinarian to be euthanized. Only for purposes of receiving veterinarian care or boarding, the owner may transfer the vicious dog to a veterinarian for veterinarian care or a boarding facility or pet sitter for boarding and must disclose the vicious classification of the dog and circumstances of the classification to anyone receiving or handling the dog. The owner of a dangerous or vicious dog who moves from one jurisdiction to another in Georgia shall register the dog in the new jurisdiction within ten days of becoming a resident and notify the dog control officer of the jurisdiction from which he or she moved. The owner of a

dangerous or vicious dog who moves into the county shall register the dog within 30 days of becoming a resident.

(4) An animal control officer is authorized to make whatever inquiry is deemed necessary to ensure compliance with this section.

(5) All owners of dogs shall be required to obtain an annual dog license per animal as set forth in the schedule of fees. All owners of dangerous or vicious dogs shall pay an additional annual fee as established in the schedule of fees. Certificates of registration of dangerous or vicious dogs shall be renewed on an annual basis. At the time of renewal, a dog control officer shall verify that the owner is continuing to comply. Failure to renew a certificate of registration within ten days of the renewal date or initial classification date shall constitute a violation.

*(d) Restraint.*

(1) It is unlawful for a dangerous dog to be unattended with minors or the owner of such to permit the dog to be outside a proper enclosure unless the dog is restrained by a substantial chain or leash not longer than six feet, and is under the physical restraint of a responsible person capable of preventing the dog from engaging any other human or animal when necessary, or the dog is contained in a closed and locked cage or crate, or the dog is working or training as a hunting dog, herding dog, or predator control dog, subject to the limitations below.

(2) It is unlawful for a vicious dog to be unattended with minors or the owner of such to permit the dog to be outside a proper enclosure unless the dog is contained in a closed and locked cage or crate or is muzzled and is restrained by a substantial chain or leash not longer than six feet, and is under the restraint of a responsible person capable of preventing the dog from engaging any other human or animal when necessary. The muzzle shall be made in a manner that will prevent it from biting any person but will not cause injury to the dog or interfere with its vision or respiration.

(3) A proper enclosure must keep a dangerous or vicious dog securely confined indoors or in a securely enclosed and locked pen, fence or structure designed to prevent the dog from escaping and suitable to prevent the entry of young children. Any such pen or structure shall have secure sides and a secure top, and, if the dog is enclosed within a fence, all sides of the fence shall be of sufficient height and the bottom of the fence shall be constructed or secured as to prevent the dog's escape. Any such enclosure shall be at least 25 feet from the front door and any utility meter point to protect utility employees and the general public. Any such enclosure shall also provide protection from the elements for the dog.

(4) Training, hunting, herding exemption from dangerous dog restraint/leash requirement: In addition to the requirements otherwise specified by this O.C.G.A. § section and O.C.G.A. § 4-8-29(a)(3), the person training the dog(s) must be the owner thereof, and doing so per all DNR requirements including without limitation a valid hunting license. Training, hunting, herding and/or predator control cannot take place off the property of the owner thereof, unless with the express written permission and acknowledgement of dangerousness of the dog granted by the owner of the land being used, and only with a dog that will instantly respond to the verbal commands of the dog's owner, including without limitation a command to immediately heel and/or return to the owner.

*(e) Confiscation.*

(1) A dangerous or vicious dog shall be immediately confiscated by the animal control officer or by a law enforcement officer or by another person authorized by the animal control officer in the case of any violation of this article. A refusal to surrender a dog subject to confiscation shall be a violation of this article.

(2) Any dog that has been confiscated shall be returned to its owner upon the owner's compliance with the provisions of this section and upon the payment of reasonable confiscation costs. In the event the owner has not complied with this section within 20 days of the date the dog was confiscated, said dog shall be destroyed in an expeditious and humane manner and the owner is liable for the cost of euthanasia. Criminal prosecution shall not be stayed due to owner recovery or euthanasia of the dog.

(f) *Violations.*

(1) The owner of a dangerous or vicious dog may be ordered to pay restitution to the injured party.

A vicious dog owner who violates this section or whose vicious dog is subject to confiscation under this section shall be guilty of a misdemeanor of high and aggravated nature. In addition to any confinement that might be imposed for a conviction under this subsection, for the second conviction a fine of not less than \$500.00 shall be imposed and for a third or subsequent conviction a fine of not less than \$750.00 shall be imposed.

(2) The owner of a dangerous dog who violates this section or whose dangerous dog is subject to confiscation under this section shall be guilty of a misdemeanor. In addition to any confinement that might be imposed for a conviction under this subsection, for a second conviction a fine of not less than \$250.00 shall be imposed and for a third or subsequent conviction a fine of not less than \$400.00 shall be imposed.

(3) If an owner who has a previous conviction for a violation of this section knowingly and willfully fails to comply with the provisions of this section, such owner shall be guilty of a misdemeanor of high and aggravated nature if the owner's dog attacks or bites a human being under circumstances constituting another violation of this section. The owner of a dog who is convicted for a violation of this subsection shall be punished by a fine of not less than \$1,000.00 or by imprisonment for not less than one year or by both such fine and imprisonment.

(4) An owner who knowingly and willfully fails to comply with this section shall be guilty of a misdemeanor of high and aggravated nature if the owner's dog aggressively attacks and causes severe injury or death of a human being under circumstances constituting a violation of this section. The owner of a dog who is convicted for a violation of this subsection shall be punished by a fine of not less than \$1,000.00 or by imprisonment for not less than one year or by both fine and imprisonment.

(5) In addition to the penalties for violations under this section, the dog involved shall be immediately confiscated by the animal control officer or by a law enforcement officer or another person authorized by the animal control officer and placed in quarantine for the proper length of time as determined by the county board of health and, thereafter, the dangerous dog shall be destroyed in an expeditious and humane manner.

(6) No owner of a dog shall be held criminally liable under this section for injuries inflicted by said owner's dog to any human being willfully trespassing on the owner's property.

(g) *Exceptions.* A dog that inflicts an injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer's official duties shall not be a dangerous dog or vicious dog within the meaning of this section. A dog shall not be a dangerous dog or a vicious dog within the meaning of this section if the injury inflicted by the dog was sustained by a person who, at the time, was committing a willful trespass or other tort or was tormenting, abusing or assaulting the dog or had in the past been observed or reported to have tormented, abused or assaulted the dog or was committing or attempting to commit a crime.

(h) *Previously classified.* Any dog classified prior to July 1, 2012, as a potentially dangerous dog in this state shall on and after that date be classified as a dangerous dog under this article. Any dog classified prior to July 1, 2012, as a dangerous dog or vicious dog in this state shall on and after that date be classified as a vicious dog under this article. The owner of any dog referred to in subsection (a) of this O.C.G.A. § section shall come into compliance with all current provisions of this article by January 1, 2013.

The judge of any court of competent jurisdiction within this state may order the euthanasia of a dog if the court finds, after notice and opportunity for hearing as provided by § 4-8-23, 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 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.

**Sec. XXXXXX. - Training guard or protection dogs.**

It is unlawful to train a guard or protection dog or own or operate a business where guard or protection dog(s) are housed, unless the trainer holds a state kennel license, a county business license, and maintains at all times either a policy of insurance or a surety bond in a minimum amount of \$1,000,000.00 to cover claims for any personal injuries inflicted by the dog or dogs being trained, which policy or surety bond shall be issued by an insurer or surety, as the case may be, authorized to transact business in this state. It is unlawful to train a guard or protection dog in residential area, on public property, including but not limited to, public parks.