



# Animal Cruelty (GA) Summary

By Claudine Wilkins and Jessica Rock, Founders of Animal Law Source™

## Cruelty to Animals

[O.C.G.A. § 16-12-4](#) governs cruelty to animals in Georgia, which can be either a misdemeanor, misdemeanor of a high and aggravated nature, or a felony.

### What constitutes misdemeanor “cruelty”?

- 1) Causing physical pain, suffering, or death by any unjustifiable act or omission; OR
- 2) Having intentionally exercised custody, control, possession, or ownership of an animal, fails to provide adequate food, water, sanitary conditions, or ventilation that is consistent with what a reasonable person of ordinary knowledge would believe is the normal requirement and feeding habit for such an animal’s size, species, breed, age, and physical condition.



### What are the penalties for a conviction?

- A misdemeanor carries a penalty of up to 1 year in jail and up to a \$1000 fine. Upon the second or subsequent conviction of cruelty to animals a person shall be guilty of a misdemeanor of a high and aggravated nature and penalized by up to 1 year in jail, up to a \$5000 fine, or both.
- If convicted of a felony, the penalty shall be imprisonment for no less than 1 year but not more than 5 years and a fine not to exceed \$15,000.00. Upon the second or subsequent conviction of aggravated cruelty to animals a person shall be punished by imprisonment for not less than 1 nor more than 10 years, a fine not to exceed \$100,000.00, or both.

### What constitutes “malice”?

- 1) An actual intent, which may be shown by the circumstances connected to the act, to cause the particular harm produced; OR
- 2) The wanton and willful doing of an act with an awareness of a plain and strong likelihood that a particular harm may result.

### What makes cruelty “aggravated” (felony)?

When an individual maliciously causes the death of an animal; maliciously causes physical harm to an animal by depriving it of a part of its body, by making a body part useless, or by seriously disfiguring an animal’s body or body part; maliciously torturing an animal by causing severe or prolonged

physical pain; maliciously administering poison to an animal; exposing an animal to something poisonous, with the intent that animal swallow it; or intentionally exercising control over an animal and maliciously failing to provide adequate care (as defined under the definition of “cruelty”) to the extent that death of the animal occurs or a part of the animal’s body is seriously disfigured or rendered useless.

### **What is NOT considered “cruelty to animals”?**

Practices allowed under the laws of Georgia or of the United States, including, but not limited to, agricultural, animal husbandry, butchering, food processing, marketing, scientific research, training, medical, zoological, exhibition, competitive, hunting, trapping, fishing, wildlife management, or pest control practices or the authorized practice of veterinary medicine nor to limit in any way the authority or duty of the Department of Agriculture, Department of Natural Resources, any county board of health, any law enforcement officer, dog, animal, or rabies control officer, humane society, veterinarian, or private landowner protecting his or her property.

### **What is a defense to killing or injuring an animal?**

When a person reasonably believes that such act is necessary to defend against imminent threat of injury or damage to any person, other animal or property. The method used to injure or kill an animal under the circumstances set forth in paragraph (1) of this subsection shall be designed to be as humane as is possible under the circumstances.

### **When is someone still guilty of cruelty to animals even when they reasonably believe it is necessary to defend against an imminent threat of injury or damage to person, other animal, or property?**

- 1) The person being threatened is attempting to commit, committing, or fleeing after the commission or attempted commission of a crime;
- 2) The person or other animal being threatened is attempting to commit or committing a trespass or other tortious interference with property; or
- 3) The animal being threatened is not lawfully on the property where the threat is occurring.

### **Does ownership of property or animal matter?**

Ownership of the property where an animal is found does not materially affect whether someone is found guilty of cruelty to animals. Ownership of the animal does not materially affect whether someone is found guilty of cruelty to animals.

### **Case Law**

In the Interest of C.B., 286 Ga. 173 (2009). Holding: O.C.G.A. § 16-12-4 was not unconstitutionally vague as subsection (b) clearly explained when a person would be liable for cruelty to animals, while subsections (f)(1) and (2) explained that killing or wounding an animal could be justified under some circumstances.

Favors v. State, 326 Ga. App. 373 (2014). Evidence that five dogs were restrained on defendant’s property with heavy logging chains, bite wounds, and various signs of scarring that were consistent with dogfighting. Defendant also had a dogfighting pit in basement, with tables, chairs, and couches around. This supported conviction for cruelty to animals.

Cotton v. State, 263 Ga. App. 843 (2003). Evidence that sheriff’s deputy found cows confined without water or feed in a small pen on property defendant and his wife owned was sufficient to sustain defendant’s conviction for cruelty to animals even though State did not prove willful neglect.

**What animals are not covered by this statute?**

Fish and any pest that might be exterminated or removed from a structure are not considered “animals.”

*Credit Kathryn F. Burmeister*



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