Responsible Dog Ownership Law (Dog Bite Law) Summary

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THE RDOL, O.C.G.A. § 4-8-1 et seq.

HB 685, is legislation sponsored by Rep. Gene Maddox to protect the general public and their pets from injuries and death caused by dog attacks. 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 subsequent to an attack and outlines the responsibilities of owners and the consequences of non-compliance with the requirements. The effective date was July 1, 2012.

This review is intended to inform the reader of the most common applications of the law. Further study is encouraged by reviewing the entire statute listed above.

Intention Of The RDOL Law: § 4-8-1

To establish as state law minimum standards for the control and regulation of dogs and to establish state crimes for violations of such minimum standards. However, this chapter shall not prohibit local governments from adopting and enforcing ordinances or resolutions which provide for more restrictive control and regulation of dogs than the minimum standards provided for in this chapter.

Immediate Impound Of A Dog That Poses A Threat To Public Safety

RDOL § 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.

Local Counties Shall Adopt The RDOL As A Minimum Requirement

Local governments shall adopt the RDOA as minimum standards in their local ordinance. Has your jurisdiction done so? And, the local government can and should add more restrictive control and regulation of dogs than the minimum standards provided by the RDOA (suggestions on what to add are below). The local governments cannot reduce the minimum standards set forth in the RDOA in their local ordinance.
What You Should Know About Classifications, O.C.G.A. § 4-8-23

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:

- 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.
- Note, in GA, a child under a certain age may not be considered a trespasser. See case law. 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. O.C.G.A. § 4-8-21(b).
- Only one classified dog may be owned by an adult.
- Only one classified dog may occupy any premise on which the dog is kept at any time.
- 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 Code section. § 4-8-27(a).
- 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.
- No one having a potentially dangerous dog (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. § 4-8-27(d)
- A vicious dog may not be kept at a domicile occupied (regardless of ownership) by certain felons; see below for specifics. § 4-8-27(f).

When Should The State RDOL Be Used Versus The Local Ordinance?

Anytime.

State law violations will create a state criminal record (GCIC) which follows the dog owner. Law enforcement/prosecutors can find a GCIC record much easier than a prior local county violation. Plus, the penalties/probation in state law are tougher and longer, respectively. It is highly recommended that any serious injury caused by a dog attack or a reckless dog owner who violates more than once or fails to comply with requirements, be charged under state law.

When Does A Police Officer (Post Certified) Need To Get Involved?

Anytime the state law is used.

The state RDOA is an arrestable/fingerprintable offense and police may arrest the dog owner. If local authorities are charging under an ordinance, then an animal control officer may cite the dog owner. However, it is recommended to use the state RDOA for the reasons stated above.

What Do You Do If A Dog Owner Refuses To Give Authorities The Attacking Dog?
RDOA § 4-8-24 - a law enforcement officer or animal control officer shall immediately impound a
dog if the officer believes the dog poses a threat to public safety. Furthermore, rabies law dictates
that a quarantine period must be initiated.

**Can You Charge A God Owner Even If The Dog Was Lawfully On Its Owner’s Property Or Restrained By Its Owner Or, In General, Lawfully Allowed To Be Where The Attack Occurs?**

Yes. Dog owners are responsible to any human (including their own minor children living in the home). That includes anyone who encounters their dog in a public place or enters the dog owner’s property lawfully. That would include invited guests/family members, invitees, licensees or those otherwise allowed by law to be on the property such as letter carriers, meter readers or persons performing a duty to the owner.

Some examples,

If child A invites child B over for a play date, then child A’s dog attacks child B, that dog should be classified. Same scenario as above, but if the kids are in the public street in front of the house and Child A calls dog over and attacks child B, that dog should also be classified.

If at a social party at dog owner’s home, dog attacks a guest, that dog should be classified.

A family dog which attacks a family member in their own home should be classified.

If a meter reader comes into dog owner’s yard and gets attacked by dog, that dog is subject to classification.

If a person enters a place of business and is attacked by dog kept at business, that dog should be classified.

However, exemptions under OCGA § 4-8-21(b) include bites and/or attacks from dogs conducting military and/or police activity, or if the victim was committing trespass, committing or attempting to commit a crime under Chapter 5 of Title 16 or abusing the dog. Note, in GA, a child under a certain age may not be considered a trespasser. See case law.

**Killing A Pet Animal – The Attacking Dog Must Be Off Its Owner’s Property When Attack Occurs**

Only when a dog _kills_ another person’s pet, the RDOA requires that the attacking dog must be off its owner’s property when the attack occurs. “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.” § 4-8-21(a)(2)(C).

**Exemptions**

Include:
Bites and/or attacks from dogs conducting military and/or police activity, or if the victim was committing trespass, committing or attempting to commit a crime or abusing the dog. Note, in GA, a child under a certain age may not be considered a trespasser. See case law.

**Dangerous Dog, § 4-8-21(a)(2)**

may be classified if the dog:

1. Causes a substantial puncture of a person’s skin by teeth without causing serious injury (excluding a nip, scratch or abrasion); or

2. Aggressively attacks in a manner that causes a person to reasonably believe in an imminent threat of serious injury to person or another person (acts of growling, barking, showing teeth alone are not sufficient to qualify. Ask, was there a chase involved or other action by dog?); or

3. While off owner’s property, kills a pet animal (with some limited exceptions as noted above).

**Vicious Dog, § 4-8-21(a)(6)**

may be classified if the dog:

1. Inflicts a serious injury on a person; or

2. Causes serious injury to a person attempting to escape attack (can include falling, hitting an object or running into the street and hit by car).

**Dangerous Dog Requirements, OCGA § 4-8-27**

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 will be issued 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 shall be 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.

Owner must maintain a secure, locked enclosure to confine the dog on the owner’s property.

A clearly visible sign must be posted warning of the "Dangerous" Dog at all entrances to the premises.

Dog must not leave property unless on a leash not to exceed 6 feet 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. § 4-8-29.

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. § 4-8-28.
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.

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.

Violation of any of the above requirements is a misdemeanor.

Failure to comply with these requirements will result in immediate confiscation of dog and a refusal to surrender dog will constitute a misdemeanor violation of the law.

**Vicious Dog Requirements, § 4-8-27(c)**

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 will be issued 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 shall be 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.

Certificates for "vicious" dogs will not be issued to persons convicted of felonies involving drugs, dogfighting or aggravated cruelty to animals or to a person who resides with such felons (until two years after completing sentence). § 4-8-27(f).

Officer *must* verify compliance at the time of renewal (note, officer should go to place where vicious dog resides, verify microchip, rabies vaccines, access enclosure & warning signs, contact insurance company for active & correct coverage, check current criminal record of owner and others residing in domicile, inquire about minors having access to dog, access muzzle, crate and leash used for dog, ask about plans to move locations, and make other pertinent inquiries).

Owner must maintain a secure, locked enclosure to confine the dog on the owner's property (sturdy enough for size of dog)

A clearly visible sign must be posted warning of the "Vicious" Dog at all entrances to the premises (can sign be seen before entering property?).

Dog must not leave property unless on a leash not to exceed 6 feet 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.

Dog cannot leave the property unless leashed, muzzled and under control, or in a locked cage or crate. Violation of this is a High & Aggravated § 4-8-29(b).
Dog cannot be left unattended with minors (even if minor is inside the owner’s home). Violation of this is High & Aggravated

Dog must be microchipped and capable of being scanned (recommended to include classification in microchip data).

A 50,000 liability insurance policy for bodily injury or property damage caused by the dog must be maintained by the owner (recommended that officer check by contacting insurance company directly rather than rely on owner’s submissions. Make sure the insurance covers the specific classified dog and it will cover bodily injury).

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. § 4-8-28(b).

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

Failing to comply with these requirements will result in immediate confiscation and a refusal to surrender dog will constitute a misdemeanor violation of law.

Certain Felons Cannot Own A Vicious Dog, § 4-8-27(f)

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 Code Section 17-10-6.1;

(B) The felony of dogfighting as provided for in Code Section 16-12-37 or the felony of aggravated cruelty to animals as provided for in Code Section 16-12-4; or

(C) A felony involving trafficking in cocaine, illegal drugs, marijuana, methamphetamine, or ecstasy as provided for in Code Sections 16-13-31 and 16-13-31.1 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 vicious dog, a dog control officer 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 violation of this article, and may result in immediate confiscation of the dog. § 4-8-30.

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 violation of this article.
Penalty

Misdemeanors & felony provisions are in the RDOA. In general most violations under the RDOA 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. § 4-8-29(d).

What If Dog Cannot Be Controlled Under The Requirements Set Forth Under Dangerous Or Vicious?

Under § 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 OCGA § 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.

Trespass

Children under a certain age do not understand trespass and cannot be considered trespassers. 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 (ex. 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.” § 4-8-21(a)(4).

“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.

Ownership, § 4-8-4
“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.

As amended 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 the 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 directly from the veterinarian rather than the 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.

**Serious Injury § 4-8-21(a)(5)**

Serious injury was amended to include a broader range of injuries. The old law did not take into account other injuries such as “avulsions” which result in a large hole that cannot be sutured. Furthermore, a puncture wound with a tear or anything needing sutures can be classified as a serious injury.

The 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.

**Public Threat – Impound Immediately**

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. § 4-8-24.

**Refusing To Surrender Dog 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. § 4-8-30.

**What If You Have A Repeat Offender Who Continues To Violate Requirements Or Allows Their Dog To Roam Free Despite Repeated Warnings?**

Under § 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 Code Section 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.
There are many ways by which a dog that poses a public risk may be euthanized under the Responsible Dog Owner Act. However it is important to remember that euthanasia will not stay the criminal prosecution of or potential civil action against the dog owner regardless of whether the dog was voluntary relinquished for euthanasia.

One – dog has not yet been classified

If the dog owner fails to request a hearing within 15 days of the notice as described under § 4-8-23(c), the animal control board or local board of health (or in some counties the animal control director) will have the hearing anyway to determine if the dog should be classified. They can classify the dog (as dangerous or vicious) but that does not mean they can automatically euthanize the dog.

Rather, typically what happens is this:

The dog is impounded, a notice is sent out, and 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 requirements are met, the dog owner can get the dog back. If the owner fails to meet the requirements within the allotted time, then the dog can be euthanized. If dog owner fails to request a hearing and it has been determined that the dog is classified and should be euthanized, then a notice will be sent to the owner of that determination with the date of euthanasia.

Under § 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 § 4-8-26, the notice shall specify the date by which the euthanasia shall occur.

Two – unspecified if dog has to be classified or not

Under § 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 § 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.
Three - unspecified if dog has to be classified. Dog has caused serious injury on more than one occasion, the dog shall be euthanized.

Under § 4-8-26,

A dog that is found, after notice and opportunity for hearing as provided by § 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.

Four - dog is already classified and owner fails to meet requirements at the time of renewal and comply within 20 days of the date the dog was confiscated, dog can be euthanized, Owner to pay cost.

Under § 4-8-27(g),

Certificates of registration shall be renewed on an annual basis. At the time of renewal of a certificate of registration for a vicious dog, a dog control officer 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 violation of this article.

Five - dog is already classified and dog owner violates ANY violation of article and fails to comply with requirements within 20 days of the date the dog was confiscated, dog can be euthanized, Owner to pay cost.

Under § 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*, § 4-8-30

Upon receiving a report of a dog believed to be subject to classification, 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, when one whose dog has already been classified, or has received a conviction under any dog bite law and violates by failing to comply with requirements, or allows his dog to bite again, said 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 – which is usually codified in your local ordinance and is a misdemeanor.

The owner may recover such dog upon payment of reasonable confiscation and housing costs and proof of compliance.

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.

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 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 2014 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. However, the owner has 14 days to show proof of compliance otherwise, the government can humanely euthanize the dog. All fines and all charges for services by a law enforcement or dog control officer shall be paid prior to owner recovery of the dog. It is recommended that owner's compliance should be verified. For example, an officer should look at enclosure, signs, leashes, muzzles, verify ages of household members, check for felons, contact insurance company for direct verification of insurance and the like. § 4-8-30.

**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 it 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 recovery or euthanasia of the dog. Also, keep in mind, the owner may continue their irresponsible behavior in the future with another dog. Giving the dog up (relinquishment) does not always cure the behavior nor does it stop an owner from getting another dog and repeating the behavior. Only when consequences are experienced does one typically change the behavior. This law is focused on the irresponsible owner.

**Can Owner Be Charged Under This Law Even If The Attack Happened On Owner's Property?**

Yes, with the exception of the dog attacking and killing pet animal. Under “dangerous dog” is it clear that the attacking dog must be “off” its owner's property. “While off owner's property, kills a pet animal” (some exceptions allowed but limited), § 4-8-21(a)(2)(C).

**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. § 4-8-22.
Government Must Appoint Rabies Control Officer

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

Rabies law:


(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.

Who Has The Authority To Enforce?

The local government shall designate one or more individuals as dog control officer(s) which may 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 a rabies control officer appointed under § 31-19-7.

Who Can Determine Whether Dog Will Be Classified?

The person(s) assigned as dog control officer

When Must Hearing Request Be Made?

2014 legislation SB 290 changed the time limit from 15 days to 7 days from the date of notice as to when a classified dog owner can request a hearing.

After Determination Of Classification, Then What?

4-8-23(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 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.

4-8-23(d).

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 ten 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.

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 § 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 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). § 4-8-23.

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-structured 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.

**Judicial Review Of Animal Control Board Or Board Of Health Decisions**

Again, SB 290 repaired some flaws in the RDOA by allowing 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 Code 15-9-30.9 (probate court)

**OCCA § 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 § 4-8-32.

(b) An appeal from a decision by an animal control board or local board of health pursuant to subsection (f) of § 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 Code 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.

**Costs Must Be Paid Prior To Filing Appeal To Probate Court, Some Indigent Exceptions**

15-9-30.9(b).

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 Code 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 (judicial review) of a decision made by a Probate court shall end in Superior court pursuant to § 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 Code 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.

**Restitution For Victim**

Classification hearings are not the same as the trial for the criminal prosecution. However, in dog bite cases, restitution should be considered for the victim. Often times, the victim will never have a civil remedy because 1) the civil law favors bad dog owners and 2) most reckless owners do not have insurance and a personal injury attorney will not take the case simply because there is no insurance or no assets to pursue. Usually the victim has no idea, during the criminal phase, that there will be no civil remedy in the future.

**What About Classifications Occurring Before July 1, 2012 and Pending Proceedings on July 1, 2012?**

4-8-33.

(a)(1) 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.

(2) 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.

(b) The owner of any dog referred above shall come into compliance with all current provisions of this article by January 1, 2013.

H.B. 685 § 6

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.

**Defense, § 4-8-21(b)**

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

**No Defense If**

4-8-29(e).

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**

4-8-21.

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 extend to a shelter adopting out dangerous dogs.

**Other Charges To Consider In Addition To A Violation Of This Law**

Child Endangerment – parents leaving child unattended or putting child in dangerous contact with dog

Reckless Conduct – overall recklessness by owner

Aggravated Assault – when using dog as a weapon

Failure to provide proof of rabies vaccination

Manslaughter

Murder – using an animal as a weapon and person is killed

Interfering with Law Enforcement
Nuisance & Zoning Violations or other civil remedies

Animal Cruelty

Failure to provide Rabies Vaccination

Dog at Large – *THIS WILL ALWAYS HELP THE VICTIM PURSUE A CIVIL CASE*

**Liability For Damage Caused By Dogs, Civil**

Under Title 4, § 4-8-4, as amended

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.

...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.
Fingerprinting Offenders Under The RDOL

Official Attorney General's Opinion 2012-6 (December 18, 2012)

[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. § 4-8-27 (Registration Requirements for Dog Classified as Dangerous or Vicious); O.C.G.A. § 4-8-28 (Notification Requirements for Owner of Classified Dog); O.C.G.A. § 4-8-29 (Restraint Requirements for Dangerous Dogs); O.C.G.A. §10-1-351.]

“In addition to the list of fingerprintable offenses mandated by statute, O.C.G.A. § 33-3-33(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. § 4-8-27. That Code 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 to be renewed on an annual basis. I hereby designate any misdemeanor offenses arising under O.C.G.A. § 4-8-27 as offenses for which those charged are to be fingerprinted.

The second misdemeanor offense is O.C.G.A. § 4-8-28. That Code 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. § 4-8-28 as offenses for which those charged are to be fingerprinted.

The third misdemeanor offense is O.C.G.A. § 4-8-29. That Code 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 code 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. § 4-8-29 as offenses for which those charged are to be fingerprinted.”

Sentencing Options

On top of the requirements, consider adding

Victim’s restitution

Requirement to microchip all classified dogs

Spay/neuter requirements for both dangerous and vicious or at least vicious classifications

Increase insurance requirements. Many victims of severe maulings endure medical bills much higher than $50,000. Also, 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 very difficult to tap into the landlord’s insurance due to our civil law lacking a strict liability remedy. 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 a one million dollar coverage minimum for a dog that severely injures a person (West Point and Cherokee County are among those).

May consider adding a surety bond up front and monthly to cover cost and care of dog until case is heard.

May consider prescribing that an enclosure should have a fence cemented into ground. Also, no flexi-leases or electric fences allowed

A dog that bites multiple people in one attack should be deemed a vicious dog.

Reclamation 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?

Dog owner to attend an obedience training course and proof of completion

Homeowners’ association, apartment owner or landlord approval letter indicating they have been notified that there will be a classified dog living in their neighborhood or home or apartment and they have approved it.

**Civil Dog Bite Law**


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.

**SB 290 Summary**

Full text of bill can be found here:

SB 290 passed during the 2014 legislative session and went into effect on July 1, 2014

It strengthens and removes flaws in the dangerous dog law (aka The Responsible Dog Owner Law, "RDOA"). A sterilization provision was added in this bill to amend a Title 4 provision allowing for a non-surgical neutering performed by a veterinarian (§ 4-14-2).

In general, the RDOA 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 in order to keep the classified dog. Some dogs may be euthanized depending on the severity of the bite/attack or if the dog has bitten in the past. Often times, 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.

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 between jurisdictions. The Georgia RDOA allows hearings in the jurisdiction where the bite/attack occurred 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, the Probate Court (this option was added by a 2104 legislative bill SB 290).

The option to choose 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 that those counties do not have well-structured plans to handle stray animals or dangerous dog issues. Still, some counties that do have animal control do not have an animal board or organized board of health to hear these cases.

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

SB 290 allows jurisdictions to have one or more officers to carry out this law (Section 1, line 17 through 22 of bill)

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

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

4-8-23.
(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 7 days after the date shown on the notice;

Grants jurisdiction to probate court for these hearings if there is no functioning animal
control board or health board available (lines 41 through 44 of bill).

4-8-23(c).

...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.

Amends § 4-8-30 to shorten the time that a classified dog owner has to comply with
requirements from 20 to 14 days and, if owner fails to comply within 14 days of
confiscation, allows the dog to be released to an animal shelter or humanely euthanized;
owner may be required to pay cost of housing and euthanization (lines 84 through 88).

4-8-30(c).

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 Code Section 4-14-2, or euthanized in an expeditious and humane manner. The owner
may be required to pay the costs of housing and euthanasia."

Repaired a flaw in § 4-8-23(f) with regard to final decisions. The final 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 though 69 of bill)

4-8-23(f)

Judicial review of the authority’s final decision may be had in accordance with Code
Section 15-9-30.9 (probate court).

15-9-30 amended to add § 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 Code 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 Code 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 Code 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 Code 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 Code 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

Allows for non-surgical spay/neuter by intratesticular injection aka Zeutering.

A provision was “piggybacked” inside this bill related to Title 4 to allow the non-surgical spaying and neutering of animals. As technology advances, so needs the law. Georgia 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

Code 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 its reproductive organs 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." Will be added to spay/neuter.