

Senate Bill 72

By: Senators Mullis of the 53rd, Harper of the 7th, Watson of the 1st, Albers of the 56th,
Seay of the 34th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses, so as to change provisions relating to the relationships between relatives which
3 constitute incest; to change the offense of harassing phone calls to the offense of harassing
4 communications; to provide for penalties; to provide for venue; to provide for exceptions;
5 to change provisions relating to destroying or injuring a police dog or police horse; to
6 provided for definitions; to create degrees of an offense relating to harming law enforcement
7 animals; to provide for exceptions; to provide for the necropsy of law enforcement animals
8 killed in the performance of official duties; to provide for a short title; to provide for related
9 matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

13 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
14 amended by revising subsection (a) of Code Section 16-6-22, relating to incest, as follows:

15 "(a) A person commits the offense of incest when such person engages in sexual
16 intercourse or sodomy, as such term is defined in Code Section 16-6-2, with a person
17 whom he or she knows he or she is related to either by blood or by marriage as follows:

- 18 (1) Father and child or stepchild;
- 19 (2) Mother and child or stepchild;
- 20 (3) Siblings of the whole blood or of the half blood;
- 21 (4) Grandparent and grandchild of the whole blood or of the half blood;
- 22 (5) Aunt and niece or nephew of the whole blood or of the half blood; or
- 23 (6) Uncle and niece or nephew of the whole blood or of the half blood."

24 **PART II**

25 **SECTION 2-1.**

26 Said title is further amended by revising Code Section 16-11-39.1, relating to harassing
27 phone calls, as follows:

28 "16-11-39.1.

29 (a) A person commits the offense of harassing ~~phone calls~~ communications if such person
30 ~~telephones~~:

31 (1) Contacts another person repeatedly via telecommunication, e-mail, text messaging,
32 or any other form of electronic communication, whether or not conversation ensues, for
33 the purpose of annoying, harassing, or molesting, threatening, or intimidating another
34 such person or the family of such other person; uses over the telephone language
35 threatening

36 (2) Threatens bodily harm via telecommunication, e-mail, text messaging, or any other
37 form of electronic communication; telephones

38 (3) Telephones another person and intentionally fails to hang up or disengage the
39 connection; or ~~knowingly~~

40 (4) Knowingly permits any telephone device used for telecommunication, e-mail, text
41 messaging, or any other form of electronic communication under such person's control
42 to be used for any purpose prohibited by this subsection.

43 (b) Any person who commits the offense of harassing ~~phone calls~~ communications shall
44 be guilty of a misdemeanor.

45 (c) The offense of harassing communications shall be considered to have been committed
46 in the county where:

47 (1) The defendant was located when he or she placed the telephone call or transmitted,
48 sent, or posted an electronic communication; or

49 (2) The telephone call or electronic communication was received.

50 (d) Any violation of this Code section shall constitute a separate offense and shall not
51 merge with any other crimes set forth in this title.

52 (e) This Code section shall not apply to constitutionally protected speech."

53 **PART III**

54 **SECTION 3-1.**

55 This part of this Act shall be known and may be cited as "Tanja's Law."

56 **SECTION 3-2.**

57 Said title is further amended by revising subsection (e) of Code Section 16-5-23, relating to
58 simple battery, as follows:

59 "(e) Any person who commits the offense of simple battery against a police officer, ~~law~~
60 ~~enforcement dog~~, correction officer, or detention officer engaged in carrying out official
61 duties shall, upon conviction thereof, be punished for a misdemeanor of a high and
62 aggravated nature."

63 **SECTION 3-3.**

64 Said title is further amended by revising Code Section 16-11-107, relating to destroying or
65 injuring a police dog or police horse, as follows:

66 "16-11-107.

67 (a) As used in this Code section, the term:

68 (1) 'Accelerant detection dog' means a dog trained to detect hydrocarbon substances.

69 (2) 'Bomb detection dog' means a dog trained to locate bombs or explosives by scent.

70 (2.1) 'Dangerous weapon' shall have the same meaning as provided for in Code Section
71 16-11-121.

72 (2.2) 'Firearm' means any handgun, rifle, shotgun, stun gun, taser, or dangerous weapon.

73 (3) 'Firearms detection dog' means a dog trained to locate firearms by scent.

74 (3.1) 'Knowingly' means having knowledge that an animal is a law enforcement animal.

75 (3.2) 'Law enforcement animal' means a police dog, police horse, or any other animal
76 trained to support a peace officer, fire department, or the state fire marshal in
77 performance of law enforcement duties.

78 (4) 'Narcotic detection dog' means a dog trained to locate narcotics by scent.

79 (5) 'Narcotics' means any controlled substance as defined in paragraph (4) of Code
80 Section 16-13-21 and shall include marijuana as defined by paragraph (16) of Code
81 Section 16-13-21.

82 (6) 'Patrol dog' means a dog trained to protect a peace officer and to apprehend or hold
83 without excessive force a person in violation of the criminal statutes of this state.

84 (6.1) 'Performance of its duties' means performing law enforcement, fire department, or
85 state fire marshal duties as trained.

86 (7) 'Police dog' means a bomb detection dog, a firearms detection dog, a narcotic
87 detection dog, a patrol dog, an accelerant detection dog, or a tracking dog used by a law
88 enforcement agency. Such term ~~'Police dog'~~ also means a search and rescue dog.

89 (8) 'Police horse' means a horse trained to transport, carry, or be ridden by a law
90 enforcement officer and used by a law enforcement agency.

91 (8.1) 'Search and rescue dog' means any dog that is owned or the services of which are
92 employed by a fire department or the state fire marshal for the principal purpose of aiding
93 in the detection of missing persons, including but not limited to persons who are lost, who
94 are trapped under debris as a result of a natural or manmade disaster, or who are
95 drowning victims.

96 (9) 'Tracking dog' means a dog trained to track and find a missing person, escaped
97 inmate, or fleeing felon.

98 ~~(b) Any person who knowingly and intentionally destroys or causes serious or debilitating~~
99 ~~physical injury to a police dog or police horse, knowing said dog to be a police dog or said~~
100 ~~horse to be a police horse, shall be guilty of a felony and, upon conviction thereof, shall be~~
101 ~~punished by imprisonment for not less than one nor more than five years, or a fine not to~~
102 ~~exceed \$10,000.00, or both. This subsection shall not apply to the destruction of a police~~
103 ~~dog or police horse for humane purposes.~~

104 (b) A person commits the offense of harming a law enforcement animal in the fourth
105 degree when he or she knowingly and intentionally causes physical harm to such law
106 enforcement animal while such law enforcement animal is in performance of its duties or
107 because of such law enforcement animal's performance of its duties. Any person convicted
108 of a violation of this subsection shall be guilty of a misdemeanor of a high and aggravated
109 nature and, upon conviction thereof, shall be punished by imprisonment not to exceed 12
110 months, a fine not to exceed \$5,000.00, or both.

111 (c) A person commits the offense of harming a law enforcement animal in the third degree
112 when he or she knowingly and intentionally and with a deadly weapon causes, or with any
113 object, device, instrument, or body part which, when used offensively against such law
114 enforcement animal, is likely to or actually does cause, serious physical injury to such law
115 enforcement animal while such law enforcement animal is in performance of its duties or
116 because of such law enforcement animal's performance of its duties. Any person convicted
117 of a violation of this subsection shall be guilty of a misdemeanor of a high and aggravated
118 nature and, upon conviction thereof, shall be punished by imprisonment for not less than
119 six nor more than 12 months, a fine not to exceed \$5,000.00, or both.

120 (d) A person commits the offense of harming a law enforcement animal in the second
121 degree when he or she knowingly and intentionally shoots a law enforcement animal with
122 a firearm or causes debilitating physical injury to a law enforcement animal while such law
123 enforcement animal is in performance of its duties or because of such law enforcement
124 animal's performance of its duties. Any person convicted of a violation of this subsection
125 shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment
126 for not less than one nor more than five years, a fine not to exceed \$25,000.00, or both.

127 (e) A person commits the offense of harming a law enforcement animal in the first degree
128 when he or she knowingly and intentionally causes the death of a law enforcement animal
129 while such law enforcement animal is in performance of its duties or because of such law
130 enforcement animal's performance of its duties. Any person convicted of a violation of this
131 subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by
132 imprisonment for not less than 18 months nor more than five years, a fine not to exceed
133 \$50,000.00, or both.

134 (f) In addition to any other penalty provided for under this Code section, any person
135 convicted of a violation under this Code section shall pay restitution to the law enforcement
136 agency, fire department, or the state fire marshal which is the owner of, or which owned,
137 such law enforcement animal in the amount of associated veterinary expenses incurred in
138 the treatment of such law enforcement animal pursuant to Article 1 of Chapter 14 of Title
139 17; provided, however, that if such law enforcement animal died or is no longer able to
140 engage in performance of its duties as a result of a violation of this Code section, the
141 amount paid in restitution shall additionally include the amount of the actual replacement
142 value of the law enforcement animal, which shall include the value of an animal to replace
143 the law enforcement animal and all costs associated with training such animal and its
144 handler or handlers.

145 (g) Nothing in this Code section shall prohibit the killing or euthanasia of a law
146 enforcement animal for humane purposes.

147 (h) Nothing in this Code section shall prohibit the defense of a person against a law
148 enforcement animal that attacks such person without or in spite of commands given by its
149 handler.

150 (i) The Division of Forensic Sciences of the Georgia Bureau of Investigation shall perform
151 forensic pathology services upon any law enforcement animal whose death occurred while
152 in performance of its duties or because of such law enforcement animal's performance of
153 its duties."

154 **PART IV**
155 **SECTION 4-1.**

156 All laws and parts of laws in conflict with this Act are repealed.