

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 96

INTRODUCER: Rules Committee; Criminal Justice Committee; and Senator Bean and others

SUBJECT: Police, Fire, and Search and Rescue Dogs and Police Horses

DATE: March 21, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Storch</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Farach</u>	<u>Cibula</u>	<u>JU</u>	<u>Favorable</u>
3.	<u>Storch</u>	<u>Phelps</u>	<u>RC</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 96 increases the penalty from a third degree felony to a second degree felony for intentionally and knowingly, without lawful cause or justification, causing great bodily harm, permanent disability, or death to, or using a deadly weapon upon, a police, fire, or search and rescue (SAR) canine, or a police horse. Additionally, the bill makes the corresponding changes to the offense severity ranking chart.

The bill expands the definitions of police canine and SAR canine to include a canine that is owned, or the service of which is employed, by a correctional agency.

The bill also replaces the word “dog” with the word “canine” in ss. 767.16 and 843.19, F.S.

The Criminal Justice Impact Conference estimates that the bill would result in a “positive insignificant” prison bed impact (10 or fewer prison beds). See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2019.

II. Present Situation:

Special K-9 and mounted units

Specially-trained dogs are used by various agencies and departments throughout the state in their K-9 units. In 2017, there were 140 police departments and 65 sheriff's offices with active canine units.¹ These departments employ dogs to assist with tracking and apprehending offenders, narcotics and bomb detection,² and building and article searches.³ Additionally, some fire departments use dogs as part of arson detection programs.⁴ Various non-profit organizations also use dogs for the purpose of search and rescue, such as the Community Emergency Response Team, which provides support to the Federal Emergency Management Agency.⁵

Additionally, the Department of Corrections (DOC) employs canines for both contraband interdiction and tracking. Specifically, the canines tasked with prohibiting the introduction of contraband into correctional facilities and onto the DOC property are certified narcotic, cell phone, or munitions detection canines. The canines utilized for tracking help to recapture inmates who have escaped and assist law enforcement agencies in searches for missing children.⁶

Though not as frequently used as K-9 units, select law enforcement agencies throughout the state have mounted units,⁷ whereby specially-trained horses are used to assist with crowd control, special events, and additional patrol functions, among other tasks.⁸

Offenses against police animals

Intentional offenses against police animals most often occur while the animals are on duty. Because of this, offenses against police horses are infrequent because mounted units are most commonly used for non-crime related purposes. However, one instance of intentional harm

¹ Information provided by email from Amy Mercer, Executive Director, The Florida Police Chiefs Association (January 15, 2019) (on file with Senate Criminal Justice Committee).

² City of Orlando, *K-9 Unit*, available at <http://www.cityoforlando.net/police/k-9-unit/> (last visited Mar. 6, 2019).

³ St. Petersburg Police Department, *K-9 Unit*, available at <http://police.stpete.org/usb/k-9.html> (last visited Mar. 6, 2019).

⁴ City of Orlando, *Accelerant Detection Canines*, available at <http://www.cityoforlando.net/fire/accelerant-detection-canines/> (last visited January 24, 2019).

⁵ Boondocks K9 SAR-CERT Unit, *Community Emergency Response Team (CERT)*, available at <https://www.boondocksk9.org/> (last visited January 24, 2019).

⁶ Department of Corrections, *2019 Agency Legislative Bill Analysis for SB 96*, (January 29, 2019) (on file with the Rules Committee).

⁷ The following agencies have mounted units: Escambia County Sheriff's Office see <http://www.escambiaso.com/mounted-unit/>; Hillsborough County Sheriff's Office see <http://www.hcso.tampa.fl.us/A-Z-Directory/M/Mounted-Unit.aspx>; Key West Police Department see <https://www.cityofkeywest-fl.gov/departments/division.php?structureid=147>; Marion County Sheriff's Office see <http://www.marionso.com/mounted-unit/>; Orlando Police Department see <http://www.cityoforlando.net/police/mounted-patrol/>; Palm Beach County Sheriff's Office see <https://www.pbso.org/services/countywide-operations/mounted-unit/>; Pinellas Park Police Department see <https://www.pinellas-park.com/642/Mounted-Patrol>; and St. Petersburg Police Department see <http://police.stpete.org/usb/mounted-unit.html> (last visited Mar. 6, 2019).

⁸ City of Orlando, *Mounted Patrol*, available at <http://www.cityoforlando.net/police/mounted-patrol/> (last visited Mar. 6, 2019).

occurred several years ago when an attendee at the Gasparilla parade in Tampa punched a horse that was used to patrol the event.⁹

In contrast, police dogs are frequently used in conjunction with high-intensity, criminal situations and are often deployed by their handlers to chase after fleeing felons. As a result, the dogs can be caught in the line of fire while on the job. Two recent incidents resulted in the death of a police dog while the dog was on duty. In September 2018, 3-year old Fang, a member of Jacksonville Sheriff's Office canine unit, was shot and killed by a teenager who was fleeing a scene after carjacking two women at a gas station minutes earlier.¹⁰ Similarly, in December 2018, Palm Beach County Sheriff's Office's canine, 3-year-old Cigo, was shot and killed by an attempted murder suspect outside of a shopping mall.¹¹

Protecting police animals from intentional harm

In an effort to deter intentional harm toward police animals, legislation aimed at creating stiffer penalties for those crimes has been introduced at both the federal and state level. In August 2000, Congress passed the Federal Law Enforcement Animal Protection Act of 2000, which made it a crime to willfully and maliciously harm a police animal, or attempt or conspire to do so, resulting in a penalty of imprisonment for up to one year. Additionally, permanently disabling or causing serious bodily injury or death to a police animal may result in a term of imprisonment of up to 10 years under the act.¹²

Similar efforts to increase penalties for crimes against police animals have been attempted at the state level as well. In Utah, legislation was introduced in 2018 to increase the penalty from a third degree felony to a second degree felony for intentionally or knowingly causing death to a police dog.¹³ Additionally, in South Carolina, legislation in 2018 named after two police dogs that were killed in the line of duty¹⁴ proposed to increase the penalty for harming a police animal to a maximum prison sentence of 10 years and a potential \$10,000 fine.¹⁵ Current Michigan law provides that a person who intentionally kills or causes serious physical harm to a police dog, police horse, or search and rescue dog is guilty of a felony punishable by imprisonment of up to 5 years, a fine of up to \$10,000, or both.¹⁶

⁹ Ashley Yore, *Chad the police horse retires after 13 years of service in Tampa*, ABC ACTION NEWS (May 11, 2018), <https://www.abcactionnews.com/news/region-tampa/chad-the-police-horse-retires-after-13-years-of-service-in-tampa>.

¹⁰ Colette DuChanois and Tarik Minor, *Audio, video evidence released in case of teen held in K-9's death*, NEWS4JAX (Nov. 12, 2018), <https://www.news4jax.com/news/local/jacksonville/new-evidence-details-case-against-teen-accused-of-killing-jso-k-9>.

¹¹ Mark Osborne and Jason M. Volack, *Suspect kills police dog in shootout outside mall on Christmas eve, police say*, ABC NEWS (Dec. 25, 2018), <https://abcnews.go.com/US/suspect-kills-police-dog-shootout-mall-christmas-eve/story?id=60007552>.

¹² 18 U.S.C.A. s. 1368.

¹³ 2018 General Session, state of Utah, S.B. 57 (2018).

¹⁴ Tim Smith, *Police dog protection: Stiffer penalty proposed for harming K-9s*, GREENVILLE NEWS (Feb. 13, 2018), <https://www.greenvilleonline.com/story/news/local/south-carolina/2018/02/13/police-dog-protection-stiffer-penalty-proposed-harming-k-9-s/332391002/>.

¹⁵ 122nd Session, South Carolina General Assembly, S. 6 (2017-18).

¹⁶ MICHIGAN COMPILED LAWS ANN. s. 750.50c.

Currently, Florida law provides that it is a third degree felony¹⁷ to intentionally and knowingly, without lawful cause or justification, cause great bodily harm, permanent disability, or death to, or use a deadly weapon upon a police dog, police horse, fire dog, or SAR dog.¹⁸ Those animals have specific definitions in law and are defined in the following manner:

- “Police dog” and “police horse” means any dog or horse, respectively, that is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders;
- “Fire dog” means any dog that is owned, or the service of which is employed, by a fire department, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detention of flammable materials or the investigation of fires; and
- “SAR dog” means any search and rescue dog that is owned, or the service of which is employed, by a fire department, a law enforcement agency, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of missing persons, including, but not limited to, persons who are lost, who are trapped under debris as the result of a natural, manmade, or technological disaster, or who are drowning victims.¹⁹

III. Effect of Proposed Changes:

The bill increases the penalty from a third degree felony to a second degree felony²⁰ for intentionally and knowingly, without lawful cause or justification, causing great bodily harm, permanent disability, or death to, or using a deadly weapon upon, a police, fire, or SAR canine, or a police horse. Additionally, the bill makes these corresponding changes to the offense severity ranking chart.²¹

The bill also expands the definitions of police canine and SAR canine to include a canine that is owned, or the service of which is employed, by a correctional agency.

Additionally, the bill replaces the word “dog” with the word “canine” in ss. 767.16 and 843.19, F.S.

The bill is effective October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁷ Section 843.19(2), F.S. A third degree felony is punishable by a state prison term not exceeding 5 years, a fine not exceeding \$5,000, or both. Sections 775.082(3)(e) and 775.083(1)(c), F.S.

¹⁸ Section 843.19(2), F.S.

¹⁹ Section 843.19(1)(a)-(c), F.S.

²⁰ A second degree felony is punishable by a state prison term not exceeding 15 years, a fine not exceeding \$10,000, or both. Sections 775.082(3)(d) and 775.083(1)(b), F.S.

²¹ Section 921.0022, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official prison bed impact, if any, of legislation has determined that this bill will result in a “positive insignificant” prison bed impact (10 or fewer prison beds). In fiscal year 2017-18, one person was sentenced pursuant to s. 843.19, F.S., and no offenders were sentenced to prison.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 767.16, 843.19, and 921.0022.

²² Office of Economic & Demographic Research, *Criminal Justice Impact Conference Narrative Analysis of CS/SB 96* (Feb. 27, 2019), available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSSB96.pdf>.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Rules on March 21, 2019:

The Committee Substitute expands the definitions of police canine and SAR canine to include a canine that is owned, or the service of which is employed, by a correctional agency.

CS by Criminal Justice on February 11, 2019:

The Committee Substitute:

- Increases the penalty from a third degree felony to a second degree felony for intentionally and knowingly, without lawful cause or justification, causing great bodily harm or death, or using a deadly weapon upon, a police horse;
- Makes the corresponding revision to the offense severity ranking chart; and
- Replaces the term “dog” with “canine” in s. 767.16, F.S.

- B. **Amendments:**

None.