

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1047 Offenses Against Certain Animals

SPONSOR(S): Killebrew and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1300

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	17 Y, 0 N	Hall	Hall
2) Justice Appropriations Subcommittee	14 Y, 0 N	Saag	Keith
3) Judiciary Committee			

SUMMARY ANALYSIS

Specially-trained canines are used by various public safety agencies and departments throughout Florida in K-9 units. Such agencies and departments employ canines to assist with tracking and apprehending violent offenders, detecting narcotics and bombs, and performing building and article searches. Additionally, some fire departments use canines as part of arson detection programs. Though not as commonly used as K-9 units, select law enforcement agencies throughout Florida have mounted police units, whereby specially-trained horses are used to assist with crowd control, special events, and additional patrol functions, among other tasks.

Offenses against police and other public safety agency animals occur most often while the animals are on duty. Section 843.19, F.S., prohibits a person from actually and intentionally maliciously touching, striking, or causing bodily harm to a police canine, fire canine, search and rescue (SAR) canine, or police horse as a first degree misdemeanor. A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine.

Section 843.01, F.S., prohibits a person from knowingly and willfully resisting, obstructing, or opposing a specified officer, including a law enforcement officer, by offering or doing violence to the person of the officer. A violation for resisting an officer with violence is a third degree felony, punishable by up to five years imprisonment and a \$5,000 fine. However, this prohibition does not currently apply to resisting a police canine or police horse working at the direction of or in tandem with a law enforcement officer.

HB 1047 amends s. 843.19(3), F.S., to increase the criminal penalty for actually and intentionally maliciously touching, striking, or causing bodily harm to a police canine, fire canine, SAR canine, or police horse from a first degree misdemeanor to a third degree felony.

Additionally, the bill amends s. 843.01, F.S., to prohibit a person from knowingly and willfully resisting, obstructing, or opposing any police canine or police horse, as defined in s. 843.19(1)(a), F.S., working at the direction of or in tandem with an officer or legally authorized person, by offering to do violence to the police canine or police horse as a third degree felony.

As third degree felonies, both offenses are punishable by up to five years imprisonment and a \$5,000 fine.

The Criminal Justice Impact Conference reviewed the bill on March 27, 2023 and determined the bill would have a positive indeterminate impact on prison beds. See *Fiscal Analysis & Economic Impact Statement*.

The bill provides an effective date of October 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

K-9 and Mounted Police Units

Specially-trained canines are used by various public safety agencies and departments throughout Florida in K-9 units. Such agencies and departments employ canines to assist with tracking and apprehending violent offenders, detecting narcotics and bombs,¹ and performing building and article searches.² Additionally, some fire departments use canines as part of arson detection programs.³ Though not as commonly used as K-9 units, select law enforcement agencies throughout Florida have mounted police units,⁴ whereby specially-trained horses are used to assist with crowd control, special events, and additional patrol functions, among other tasks.⁵

Offenses Against Police Animals

Offenses against police animals occur most often while the animals are on duty. As such, offenses against police horses are relatively infrequent as mounted police units are most commonly used for non-crime related purposes. However, one instance of intentional harm occurred several years ago when an attendee at the Gasparilla parade in Tampa punched a police horse that was being used to patrol the event.⁶

In contrast, police canines are frequently used in conjunction with high-intensity, criminal situations and are often deployed by their handlers to chase after fleeing offenders. As a result, police canines can be caught in the line of fire while on duty. Two recent incidents resulted in the death of a police canine while the canine was on duty. In September 2018, three-year old Fang, a member of Jacksonville Sheriff's Office canine unit, was shot and killed by an offender who was fleeing a scene after carjacking two women at a gas station minutes earlier.⁷ Similarly, in December 2018, the Palm Beach County Sheriff's Office's canine, three-year-old Cigo, was shot and killed by an attempted murder suspect outside of a shopping mall.⁸ The Polk County Sheriff's Office's canine Vise suffered nine stab wounds and an arterial bleed in March 2020, after chasing a suspect who had broken into an occupied home. Fortunately, the responding officers were able to pull the suspect away from the canine and he was rushed to the emergency veterinarian. K-9 deputy Vise returned to the force in mid-April of 2020.⁹

Section 843.19, F.S., prohibits specified offenses committed against police canines, fire canines, search and rescue (SAR) canines, and police horses and defines related terms. Under this section, a:

¹ City of Orlando, K-9 Unit, <http://www.cityoforlando.net/police/k-9-unit/> (last visited March 30, 2023).

² St. Petersburg Police Department, K-9 Unit, <https://police.stpete.org/k-9/index.html#gsc.tab=0> (last visited March 30, 2023).

³ City of Orlando, Fire Department, Special Investigative Services Division, <https://www.orlando.gov/Our-Government/Departments-Offices/Orlando-Fire-Department> (last visited March 30, 2023).

⁴ The following agencies have mounted units: Escambia County Sheriff's Office, see <http://www.escambiaso.com/portfolio/esco-mounted-unit/>; 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.pbsso.org/services/countywide-operations/mounted-unit/>; Pinellas Park Police Department, see <https://www.pinellas-park.com/642/Mounted-Patrol/>; and City of St. Petersburg Police Department, see <https://police.stpete.org/mounted/index.html#gsc.tab=0> (last visited March 30, 2023).

⁵ City of Orlando, Mounted Patrol, <http://www.cityoforlando.net/police/mounted-patrol/> (last visited March 30, 2023).

⁶ 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> (last visited March 30, 2023).

⁷ 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/2018/11/13/audio-video-evidence-released-in-case-of-teen-held-in-k-9s-death/> (last visited March 30, 2023).

⁸ 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-christmaseve/story?id=60007552> (last visited March 30, 2023).

⁹ K-9 deputy returning to force after being stabbed in the head nine times, News Channel 8 (Apr. 14, 2020), [K-9 deputy returning to force after being stabbed in the head nine times | WFLA](https://www.wfla.com/news/k-9-deputy-returning-to-force-after-being-stabbed-in-the-head-nine-times/) (last visited March 30, 2023).

- “Police canine” and “police horse” means any canine or horse, respectively, that is owned, or the service of which is employed, by a law enforcement agency or a correctional agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders;
- “Fire canine” means any canine 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 detection of flammable materials or the investigation of fires; and
- “SAR canine” 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 correctional 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.¹⁰

Under s. 843.19, F.S., any person who:

- Intentionally and knowingly, without lawful cause or justification, causes great bodily harm, permanent disability, or death to, or uses a deadly weapon upon a police canine, police horse, fire canine, or SAR canine commits a second degree felony.¹¹
- Actually and intentionally maliciously touches, strikes, or causes bodily harm to a police canine, fire canine, SAR canine, or police horse commits a first degree misdemeanor.¹²
- Intentionally or knowingly maliciously harasses, teases, interferes with, or attempts to interfere with a police canine, fire canine, SAR canine, or police horse while the animal is in the performance of its duties commits a second degree misdemeanor.¹³

A person convicted of an offense under s. 843.19, F.S., must pay restitution for any injuries caused to the police canine, fire canine, SAR canine, or police horse and pay the replacement cost of the animal if, as a result of the offense, the animal can no longer perform its duties.¹⁴

Resisting an Officer

Section 843.01, F.S., prohibits a person from knowingly and willfully resisting, obstructing, or opposing, by offering or doing violence to the person of such officer or legally authorized person, any:

- Law enforcement officer, part-time law enforcement officer, or auxiliary law enforcement officer;
- Correctional officer, part-time correctional officer, or auxiliary correctional officer;
- Correctional probation officer;
- Member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission;
- Parole and probation supervisor;
- County probation officer;
- Personnel or representative of the Department of Law Enforcement; or
- Other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty.

A violation of s. 843.01, F.S., for resisting an officer with violence is a third degree felony.¹⁵

Criminal Punishment Code

Felony offenses which are subject to the Criminal Punishment Code¹⁶ are listed in a single offense

¹⁰ S. 843.19(1)(a)-(c), F.S.

¹¹ S. 843.19(2), F.S. A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine of up to \$10,000, or both. Ss. 775.082, 775.083, or 775.084, F.S.

¹² S. 843.19(3), F.S. A first degree misdemeanor is punishable by up to one year in the county jail and a \$1,000 fine. Ss. 775.082 and 775.083, F.S.

¹³ S. 843.19(4), F.S. A second degree misdemeanor is punishable by up to 60 days in the county jail and a \$500 fine. Ss. 775.082 and 775.083, F.S.

¹⁴ S. 843.19(5), F.S.

¹⁵ A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Ss. 775.082, 775.083, or 775.084, F.S.

severity ranking chart (OSRC), which uses 10 offense levels to rank felonies from least severe to most severe.¹⁷ Each felony offense listed in the OSRC is assigned a level according to the severity of the offense.¹⁸ A person's primary offense, any other current offenses, and prior convictions are scored using the points designated for the offense severity level of each current offense.^{19,20} The final score calculation, following the scoresheet formula, determines the lowest permissible sentence that a trial court may impose, absent a valid reason for departure.²¹

A violation under s. 843.01, F.S., for resisting an officer with violence is ranked as a Level 5 offense on the OSRC.²² Misdemeanor charges are not ranked on the OSRC.

Effect of Proposed Changes

HB 1047 amends s. 843.19(3), F.S., to increase the criminal penalty for actually and intentionally maliciously touching, striking, or causing bodily harm to a police canine, fire canine, SAR canine, or police horse from a first degree misdemeanor to a third degree felony.

Additionally, the bill amends s. 843.01, F.S., to prohibit a person from knowingly and willfully resisting, obstructing, or opposing any police canine or police horse, as defined in s. 843.19(1)(a), F.S., working at the direction of or in tandem with an officer or legally authorized person, by offering to do violence to the police canine or police horse as a third degree felony.

As third degree felonies, both offenses are punishable by up to five years imprisonment and a \$5,000 fine.

The bill provides an effective date of October 1, 2023.

B. SECTION DIRECTORY:

Section 1: Amends s. 843.01, F.S., relating to resisting officer with violence to his or her person.

Section 2: Amends s. 843.19, F.S., relating to offenses against police canines, fire canines, SAR canines, or police horses.

Section 3: Provides an effective date of October 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Criminal Justice Impact Conference reviewed the bill on March 27, 2023, and determined the bill would have a positive indeterminate impact on prison beds.²³

¹⁶ All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code.

¹⁷ S. 921.0022, F.S.

¹⁸ S. 921.0022(2) and (3)(e), F.S.

¹⁹ Ss. 921.0022 and 921.0024, F.S.

²⁰ A person may also accumulate points for factors such as victim injury points, community sanction violation points, and certain sentencing multipliers. S. 921.0024(2), F.S.

²¹ If a person scores more than 44 points, the lowest permissible sentence is a specified term of months in state prison, determined by a formula. If a person scores 44 points or fewer, the court may impose a nonprison sanction, such as a county jail sentence, probation, or community control. *Id.*

²² S. 921.0022(3)(e), F.S.

²³ Criminal Justice Impact Conference, *SB 1300—Animals Working with Law Enforcement Officers*, March 27, 2023, <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/SB1300.pdf> (last visited Apr. 4, 2023).

Per the Department of Corrections (DOC), in Fiscal Year 2018-2019, there were 206 new commitments to prison for resisting officers with violence under s. 843.01, F.S. In Fiscal Year 2019-2020, there were 167 new commitments, and there were 134 new commitments in Fiscal Year 2020-2021. There were 153 new commitments in Fiscal Year 2021-2022. It is not known how many offenders would be added with the expanded language.²⁴

Per DOC, there have been no new commitments to prison for the second degree felony currently imposed under s. 843.19, F.S. in the last four fiscal years. Per the Department of Law Enforcement (FDLE), for the current first degree misdemeanor under that section, there were: 65 arrests, with 45 convicted charges and 4 adjudications withheld, in FY 19-20; 46 arrests, with 23 convicted charges and 6 adjudications withheld, in Fiscal Year 2020-2021; and 35 arrests, with 32 convicted charges and 2 adjudications withheld, in FY 21-22.²⁵

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See *Fiscal Comments*.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have a positive indeterminate impact on jail and prison beds by creating new felony offenses for: touching, striking, or causing bodily harm to specified animals; and resisting a specified animal working at the direction of or in tandem with a specified officer.

Felony offenses that are not ranked on the OSRC default to statutorily assigned levels. An unranked third degree felony defaults to a Level 1 offense.²⁶ The offense increased by the bill for actually, intentionally, and maliciously striking specified animals would default as such. A Level 1 offense does not score a minimum prison or jail sentence.²⁷ However, because the violation may occur in conjunction with other crimes, it could increase a convict's overall score. Any impact of this offense to jail or prison bed admissions is indeterminate.

The OSRC ranks any violation of s. 843.01, F.S., as a Level 5 offense. The felony offense created in that section by the bill will be ranked as such. A Level 5 offense does not score a minimum prison or jail sentence, but allows a sentencing judge to exercise their discretion to issue those sentences without making written findings.²⁸ To the extent that the offense is eligible for a jail or prison sentence, and that it may significantly increase a convict's overall score, it will have a positive indeterminate impact on jail and prison admissions.

²⁴ *Id.*

²⁵ *Id.*

²⁶ S. 921.0023(1), F.S.

²⁷ S. 921.0024, F.S.

²⁸ S. 775.082(10), F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.