

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1047 Offenses Against Certain Animals

SPONSOR(S): Judiciary Committee, 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	19 Y, 0 N, As CS	Hall	Kramer

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 other additional patrol functions.

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:

- Intentionally and knowingly, without lawful 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 police horse as a second degree felony;
- Actually and intentionally maliciously touching, striking, or causing bodily harm to a police, fire, or SAR canine, or police horse as a first degree misdemeanor; and
- Intentionally or knowingly maliciously harassing, teasing, interfering with, or attempting to interfere with a police, fire, or SAR canine, or police horse while the animal is performing its duties as a second degree misdemeanor.

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. 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.

CS/HB 1047 amends s. 843.19, F.S., to increase the criminal penalty for:

- Actually and intentionally maliciously touching, striking, or causing bodily harm to a police, fire, or SAR canine, or police horse from a first degree misdemeanor to a third degree felony; and
- Intentionally or knowingly maliciously harassing, teasing, interfering with, or attempting to interfere with a police, fire, or SAR canine, or police horse while the animal is performing its duties from a second degree misdemeanor to a first degree misdemeanor.

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.

The bill also amends s. 921.0022, F.S., to rank specified felony offenses under ss. 843.19 and 843.01, F.S., on the offense severity ranking chart of the Criminal Punishment Code.

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

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

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

STORAGE NAME: h1047e.JDC

DATE: 4/19/2023

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 Apr. 19, 2023).

² St. Petersburg Police Department, K-9 Unit, <https://police.stpete.org/k-9/index.html#gsc.tab=0> (last visited Apr. 19, 2023).

³ City of Orlando, Fire Department, Special Investigative Services Division, <https://www.orlando.gov/Our-Government/Departments-Offices/Orlando-Fire-Department> (last visited Apr. 19, 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 Apr. 19, 2023).

⁵ City of Orlando, Mounted Patrol, <http://www.cityoforlando.net/police/mounted-patrol/> (last visited Apr. 19, 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 Apr. 19, 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 Apr. 19, 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 Apr. 19, 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 Apr. 19, 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

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.

Felony offenses which are subject to the Criminal Punishment Code (CPC)¹⁶ are listed in a single offense 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 If an offense is unranked, the CPC specifies a default level on the OSRC depending on the felony degree of the offense.¹⁹ 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.^{20,21} 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.²²

Effect of Proposed Changes

CS/HB 1047 amends s. 843.19, F.S., to increase the criminal penalty for:

- Actually and intentionally maliciously touching, striking, or causing bodily harm to a police, fire, or SAR canine, or police horse from a first degree misdemeanor to a third degree felony and ranks the offense as a Level 2 offense on the OSRC; and
- Intentionally or knowingly maliciously harassing, teasing, interfering with, or attempting to interfere with a police, fire, or SAR canine, or police horse while the animal is performing its duties from a second degree misdemeanor to a first degree misdemeanor.

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 and ranks the offense as a Level 2 offense on the OSRC.

The bill also amends s. 921.0022, F.S., to revise the current OSRC ranking for intentionally and knowingly, without lawful justification, causing great bodily harm, permanent disability, or death to, or using a deadly weapon upon, a police, fire, or SAR canine or police horse from a Level 3 offense to a Level 4 offense.

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: Amends s. 921.0022, F.S.; relating to Criminal Punishment Code; offense severity ranking chart.

Section 4: 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:

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 S. 921.0023, F.S.

²⁰ Ss. 921.0022 and 921.0024, F.S.

²¹ 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.

²² 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.*

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

Per the Department of Corrections (DOC), in Fiscal Year 2018-2019, there were 206 new commitments to prison for resisting an officer 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 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 convictions and 4 adjudications withheld, in FY 19-20; 46 arrests, with 23 convictions and 6 adjudications withheld, in Fiscal Year 2020-2021; and 35 arrests, with 32 convictions and 2 adjudications withheld, in FY 21-22.²⁵

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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.

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. 19, 2023).

²⁴ *Id.*

²⁵ *Id.*

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 19, 2023, the Judiciary Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Increased the penalty for maliciously harassing a police, fire, or SAR canine, or police horse from a second degree misdemeanor to a first degree misdemeanor;
- Ranked the offenses of maliciously touching or striking a police, fire, or SAR canine, or police horse, or resisting a police canine or police horse with violence in specified circumstances as Level 2 offenses on the OSRC; and
- Revised the ranking of intentionally causing great bodily harm or death to a police, fire, or SAR canine, or police horse from a Level 3 offense to a Level 4 offense on the OSRC.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.