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CRIMES AND OFFENSES General Provisions: Amend Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to gambling offenses, so as to change certain provisions relating to dogfighting; prohibit dogfighting and related conduct; provide for punishments; define a term; provide for applicability; amend Title 4 of the Official Code of Georgia Annotated, relating to animals, so as to change certain provisions relating to definitions relative to Chapter 8 of said title; change certain provisions relating to caring for an impounded animal; change certain provisions relating failure to

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CRIMES AND OFFENSES

General Provisions: Amend Part 1 of Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to gambling offenses, so as to change certain provisions relating to dogfighting; prohibit dogfighting and related conduct; provide for punishments; define a term; provide for applicability; amend Title 4 of the Official Code of Georgia Annotated, relating to animals, so as to change certain provisions relating to definitions relative to Chapter 8 of said title; change certain provisions relating to caring for an impounded animal; change certain provisions relating to failure to respond, right to hearing, care, and crime exception; change certain provisions relating to filing a report regarding animal cruelty and immunity; provide for related matters; to provide an effective date; repeal conflicting laws; and for other purposes.

Code Section:	O.C.G.A. § 16-12-37 (amended)
Bill Number:	HB 301
Act Number:	408
Georgia Laws:	2008 Ga. Laws 114
Summary:	The bill seeks to toughen Georgia's dogfighting laws, which are some of the weakest in the United States. The bill mandates harsher penalties for those knowingly involved in the fighting of dogs, while also introducing penalties for spectators who are caught attending dogfights.
Effective Date:	May 6, 2008

History

Dogfighting in Georgia: A Problem Long Before Michael Vick

On Monday August 27, 2007, Michael Vick, the Atlanta Falcons' star quarterback and one-time face of the National Football League,

pleaded guilty in United States District Court to federal dogfighting conspiracy charges.¹ Vick's plea was met with public outcry, and many Georgia citizens expressed their disgust that Vick was involved in such an inhumane, barbaric activity.² For years, however, due to incredibly weak laws prohibiting dogfighting in the state, this sort of activity has occurred right under the noses of Georgia citizens, and the state has become a haven for dogfighting.³ In recent years, while neighboring states such as Florida, Alabama, and South Carolina toughened their dogfighting laws, Georgia legislation remained unchanged, leading to an influx of dogfighting activity from those states.⁴ Richard Rice, state program manager for the Humane Society of the United States, claimed "Georgia has one of the weakest dogfighting laws in the country."⁵ Prior to the 2008 legislative session, Georgia was one of only two states in the country where it remained legal to attend a dogfight as a spectator, and one of only three states where it remained legal to own fighting dogs.⁶ Even well-known country music star Willie Nelson weighed in on Georgia's dogfighting issue in a series of public service announcements that were broadcast throughout Georgia leading up to the start of the 2008 legislative session.⁷ With "Georgia on My Mind" playing in the background, Nelson looked into the camera and said, "Dogfighting is against the law in Georgia, but the laws are so weak, the beautiful state of Georgia has become a haven for dogfighters from around the country."⁸

Just how pervasive is dogfighting in Georgia? In December 1999, an *Atlanta Constitution* article took a serious look at what it called

1. Rusty Dornin, *Vick Pleads Guilty, Apologizes*, CNN.com, Aug. 27, 2007, <http://www.cnn.com/2007/US/law/08/27/michael.vick/index.html>.

2. See Reaction to NFL suspension of Vick?, AJC.com, Aug. 24, 2007, http://www.ajc.com/blogs/content/shared-blogs/ajc/town-talk/entries/2007/08/24/reaction_to_nfl.html (comments to blog post indicating disgust).

3. Sandra Eckstein, *Dogfight Bills Will Pass This Year*, ATLANTA J.-CONST., Jan. 6, 2008, at 4M.

4. *Id.*

5. Sandra Eckstein, *Ga. Anti-dogfighting Law Back Before Assembly*, ATLANTA J.-CONST., Jan. 21, 2007, at M4.

6. Sandra Eckstein, *Anti-dogfighting Bills Given a Better Chance*, ATLANTA J.-CONST., Sept. 9, 2007, at M9.

7. *Dog's Best Friend: Willie Nelson*, ABCNews.com, Nov. 24, 2007, <http://abcnews.go.com/Entertainment/wireStory?id=3908076>.

8. *Id.*

Georgia's "blood sport."⁹ The article's author described that when word got out one weekend of local police raid at a dogfight in Wayne County the department began receiving "panicked calls from several women looking for their husbands. Every man had been at a dogfight that night; *the wives just weren't sure which fight had been busted.*"¹⁰ Furthermore, while no one can say for sure just how widespread dogfighting has become in Georgia, "the Human Society of the United States ranks Georgia as one of the sport's most active states."¹¹ Georgia Senator Chip Rogers (R-21st) noted that the citizens of Georgia just "don't understand the scope of the [dogfighting] activity" in Georgia.¹²

Regardless of how widespread this "sport" has become in Georgia, lawmakers in the General Assembly have thus far been reluctant to tackle the issue. The 2008 legislative session marked the fourth time in as many years that members of the State House and Senate considered passing stronger dogfighting laws in Georgia. Each prior year, however, was met with disappointment for those seeking to push through the tougher laws.

In 2007, SB 16, a bill some Georgia legislators thought was modeled after Humane Society anti-dogfighting legislation, passed the Senate unanimously.¹³ The bill faced resistance, however. Representative Bobby Reese (R-98th) expressed a concern shared by other House members as well as Georgia's hunting and fishing community, that SB 16 would affect the rights of hunters across the state because it referred only to "animal on animal" fighting.¹⁴ After being read only two times in the 2007 House session, SB 16 never came up for a vote.¹⁵

It appears that the Michael Vick guilty plea may have given the anti-dogfighting legislation just the boost it needed to make it out of Georgia's House and Senate and onto the Governor's desk. Senator

9. Alan Judd, *Dogfighting in Georgia, a Blood Sport; Raid Focuses Spotlight on Dark, Gory Tradition*, ATLANTA CONST., Dec. 19, 1999, at D7.

10. *Id.* (emphasis added).

11. *Id.*

12. Eckstein, *supra* note 5.

13. Eckstein, *supra* note 3; Georgia Senate Voting Record, SB 16, (Mar. 1, 2007).

14. Eckstein, *supra* note 3. *See also* Telephone Interview with Rep. Bobby Reese (R-98th) (Apr. 17, 2008) [hereinafter Reese Interview].

15. SB 16 did actually pass the House and the Senate during the 2008 session, but it has become a bill mainly dealing with dog collars, not dogfighting. *See* O.C.G.A. § 4-8-6.1 (Supp. 2008).

Rogers agreed, saying “[o]ur biggest problem was creating awareness of dogfighting in the public and our legislators. The Michael Vick case raised the awareness that this is a serious problem.”¹⁶ Indeed, following the conclusion of the Michael Vick sentencing in December 2007, commentators across Georgia spoke out against dogfighting and urged the State Legislature to finally “clamp down hard on those who take part in this perversion”¹⁷ finally realizing that, “[a] new law . . . is overdue.”¹⁸

History of Anti-Dogfighting Legislation in Georgia

In 1982, the Georgia General Assembly passed its first, and up to this point its only, piece of dogfighting legislation. In so doing, the General Assembly “created the offense of dogfighting, and made it a felony.”¹⁹ The General Assembly codified the new dogfighting law in Code section 16-12-37,²⁰ which defines the act of dogfighting, and provides that anyone convicted of the offense shall be punished by a mandatory fine of \$5,000.00 or punished by the mandatory fine and imprisonment for not less than one, but not more than five, years.²¹ Under the statute as passed in 1982, however, only people caught in the act of allowing a dog to fight another dog for sport, or maintaining or operating any event at which dogs are allowed or encouraged to fight one another can be arrested and prosecuted.²² Thus, spectators attending dogfights, breeders of fighting dogs, and those training dogs for the purposes of fighting could not be prosecuted under Code section 16-12-37. Furthermore, even if someone was prosecuted and convicted under Georgia’s prior dogfighting law, the penalties were relatively light: a \$5,000.00 fine

16. Eckstein, *supra* note 3.

17. Editorial, *Dogfighting Law Needs Sharper Teeth*, MACON TELEGRAPH, Dec. 17, 2007, available at 2007 WLNR 24840764.

18. *Id.*

19. William W. Daniel & Charles R. Adams III, *Criminal Law and Procedure*, 34 MERCER L. REV. 89 (1982).

20. Originally, the anti-dogfighting statute was codified in O.C.G.A. § 16-12-36 (1982). The General Assembly, however, amended Title 16 in 1983, and redesignated Code section 16-12-36 as section 16-12-37. 1983 Ga. Laws 1, 3 at §13.

21. O.C.G.A. § 16-12-37 (amended 1983).

22. *Id.*

and no guaranteed prison time. Senator Rogers has been outspoken regarding the inadequacy of the current dogfighting law in Georgia:

“[O]fficers must actually see the dogs in combat to charge someone with a felony offense of dogfighting. Which means that . . . police could find dozens of dead or injured dogs, hundreds of owners and trainers and spectators and all kinds of training equipment yet could only charge the people they saw fighting dogs when they came in.”²³

And as for the current level of punishment provided under the statute, Senator Rogers believes “\$5,000 is a joke to a serious dogfighter. . . . [s]ome of these fights have top prizes of \$25,000 or \$30,000.”²⁴ Despite this, Georgia’s anti-dogfighting law had basically remained unchanged since it was first passed in 1982, and has only seen limited treatment in Georgia’s case law.²⁵

Bill Tracking of HB 301

Consideration and Passage by the House

Representatives Bobby Reese (R-98th), David Knight (R-126th), Jay Roberts (R-154th), Al Williams (D-165th), and Mike Jacobs (R-80th), respectively, sponsored HB 301.²⁶ HB 301 was read for the first time in the House of Representatives on February 8, 2007.²⁷ On February 9, 2007, HB 301 was read for the second time, and at that time was assigned to the House Judiciary-Non Civil Committee by Speaker of the House Glenn Richardson (R-19th).²⁸

23. Eckstein, *supra* note 3.

24. *Id.*

25. *See generally* Macon Auto Cleaners v. State, 332 S.E.2d 324 (Ga. Ct. App. 1985); Barton v. State, 322 S.E.2d 54 (Ga. Ct. App. 1984); Hargrove v. State, 321 S.E.2d 104 (Ga. Ct. App. 1984) (holding, *inter alia*, Georgia’s anti-dogfighting law is not unconstitutionally vague and does not violate equal protection); Moody v. State, 320 S.E.2d 545 (Ga. Ct. App. 1984).

26. *See* HB 301, as introduced, 2007 Ga. Gen. Assem.

27. *See* Georgia General Assembly, HB 301, Bill Tracking, http://www.legis.state.ga.us/legis/2007_08/sum/hb301.htm.

28. *Id.* House Speaker Glenn Richardson is an alumnus of the Georgia State University College of Law, class of 1984.

The House Judiciary Non-Civil Committee took up discussion of HB 301 on March 7, 2007, and, following that discussion, made only minor changes to HB 301 as introduced.²⁹ Prior to the bill reaching the Committee for discussion, the bill's author, Representative Reese, modified the language covering the penalties for spectators at dogfights. The Representative removed language from the bill that would have made spectators who were knowingly present at a dogfight guilty of a felony, which, upon first conviction, would be punishable by imprisonment of at least one year but not more than five, and a fine of \$5,000.00.³⁰ Instead, Representative Reese substituted language which mandated that any person knowingly present at a dogfight, upon first conviction, would be guilty of a misdemeanor, and upon a second or subsequent conviction would be guilty of a high and aggravated misdemeanor.³¹ Thus the prison-term penalties for spectators were reduced to a maximum of twelve months, and the fine for first time offending spectators was reduced. For a second or subsequent conviction as a spectator, however, the high and aggravated nature of the misdemeanor carries with it the same fine, \$5,000.00, as a first offense felony.³²

There were two more minor changes suggested by the Committee.³³ First, Representative Kevin Levitas (D-82nd) proposed amending page 2, line 10 to add the word "only" in front of spectator.³⁴ This change of the wording of the bill to more precisely delineate between people actually involved in the dog fighting, and those who just came to watch the dogfights, was done to ensure that

29. See HB 301 (HCS) 2007 Ga. Gen. Assem.

30. See Video Recording of House Judiciary Non-Civil Committee, Mar. 7, 2007 at 31 min., 37 sec. (remarks by Rep. Bobby Reese (R-98th)), <http://media.legis.ga.gov/hav/judynon/judynon30707.wmv> [hereinafter 2007 House Judy NC Video]. See also HB 301, § 1(b)(5), as introduced, 2007 Ga. Gen. Assem.

31. Compare HB 301, § 1(b)(5), as introduced, 2007 Ga. Gen. Assem. with HB 301(HCS), § 1(c), 2007 Ga. Gen. Assem.

32. See Video Recording of House Judiciary Non-Civil Committee, Jan. 16, 2008 at 16 min., 9 sec. (remarks by Rep. Bobby Reese (R-98th)), <http://media.legis.ga.gov/hav/08/comm/judynon/judynon011608.wmv> [hereinafter 2008 House Judy NC Video]. See also HB 301 (HCS), § 1(c), 2007 Ga. Gen. Assem.

33. See generally 2007 House Judy NC Video, *supra* note 30.

34. *Id.* at 58 min., 54 sec. (remarks by Rep. Kevin Levitas (R-82nd)); see also HB 301 (HCS) 2007 Ga. Gen. Assem.

spectators were not “folded into the felony language.”³⁵ Second, Representative Robert Mumford (R-95th) moved to amend page 1, line 23 of HB 301 by inserting the words “for amusement or gain” before “causes any dogs to injure each other,” in order to make it clear that someone violates the dogfighting law by causing their dog to injure another dog purely for fun, and not, for example, in situations where the injury might occur accidentally or for legal purposes such as self defense.³⁶ Both amendments passed, and The House Judiciary Non-Civil Committee favorably reported the House Committee Substitute on March 19, 2007.³⁷

The substituted version of HB 301 never came to a vote in the House of Representatives during the 2007 legislative session³⁸ and was withdrawn and recommitted to the House Judiciary Non-Civil Committee on the final day of the session, April 20, 2007.³⁹

Upon returning for the 2008 legislative session, the House Judiciary Non-Civil Committee took up discussion of HB 301 in their first Committee meeting, on January 16, 2008. The substituted version of HB 301 that made it out of the House Judiciary Non-Civil Committee on this occasion contained only minor changes and was similar to the previous House Substitute, which had been favorably reported on March 19, 2007.⁴⁰ The first and most important change in 2008 to HB 301 occurred even before the bill came before the Committee. Representative Reese modified the language describing the penalties for persons knowingly present at dogfights only as spectators.⁴¹ Where the previous substitute to HB 301 called for such persons to be guilty of a misdemeanor upon the first conviction, and then a misdemeanor of a high and aggravated nature upon subsequent convictions, this version of the bill mandated that upon a first

35. 2007 House Judy NC Video, *supra* note 30 at 46 min., 02 sec. (remarks by Rep. Kevin Levitas (R-82nd)).

36. *Id.* at 59 min., 22 sec. (remarks by Rep. Robert Mumford (R-95th)). *See also* HB 301 (HCS) 2007 Ga. Gen. Assem.

37. Georgia General Assembly, HB 301, Bill Tracking, *supra* note 27.

38. HB 301 (HCS) 2007 Ga. Gen. Assem. never made it out of the Rules Committee, despite Representative Reese’s multiple requests for the Committee to send the bill to the House floor before the end of the 2007 session. Reese Interview, *supra* note 14.

39. Georgia General Assembly, HB 301, Bill Tracking, *supra* note 27.

40. *Compare* HB 301 (HCS) 2008 Ga. Gen. Assem. with HB 301 (HCS) 2007 Ga. Gen. Assem.

41. *See* 2008 House Judy NC Video, *supra* note 32 at 16 min., 09 sec. (remarks by Rep. Bobby Reese (R-98th)). *See also* HB 301(HCS), § 1(c), 2008 Ga. Gen. Assem.

conviction a spectator would be guilty of a misdemeanor of a high and aggravated nature.⁴² Upon a second conviction, a spectator would be guilty of a felony, the punishment of which matches the first offense of actually conducting a dogfight.⁴³ Upon a third, or subsequent conviction, a spectator would again be guilty of a felony, the punishment of which matches the second or subsequent conviction for actually conducting a dogfight.⁴⁴ This amendment represented a compromise between those Representatives in the House who felt that spectators at dogfights should not be guilty of a felony upon the first conviction, and this modification also made it much more likely that the Governor would actually sign the bill into law.⁴⁵

Representative Mumford, following a great deal of debate about how to actually define “dog” under the statute in such a way that prosecutors could more easily try these cases, proposed the only amendment to HB 301, moving to strike the language “that is a member of the species *Canis lupus familiaris*,” thus leaving the term “dog” defined in the bill as any domestic canine.⁴⁶ The House Judiciary Non-Civil Committee adopted Representative Mumford’s amendment, and favorably reported the substitute to HB 301 on January 16, 2008.⁴⁷

The House of Representatives read HB 301 for the third time on January 28, 2008, and at that time took up debating the substituted version of the bill on the floor of the House.⁴⁸ At the outset of discussion, Representative Roberts and Representative Reese offered

42. See 2008 House Judy NC Video, *supra* note 32 at 16 min., 09 sec. (remarks by Rep. Bobby Reese (R-98th)). See also HB 301(HCS), § 1(c), 2008 Ga. Gen. Assem.

43. See 2008 House Judy NC Video, *supra* note 32 at 16 min., 09 sec. (remarks by Rep. Bobby Reese (R-98th)). See also HB 301(HCS), § 1(c), 2008 Ga. Gen. Assem.

44. See 2008 House Judy NC Video, *supra* note 32 at 16 min., 09 sec. (remarks by Rep. Bobby Reese (R-98th)). See also HB 301(HCS), § 1(c), 2008 Ga. Gen. Assem.

45. Reese Interview, *supra* note 14.

46. See 2008 House Judy NC Video, *supra* note 32 at 01 hr., 02 min, 39 sec. (remarks by Rep. Robert Mumford (R-95th)). See also HB 301(HCS), § 1(a), 2008 Ga. Gen. Assem.

47. *Id.* at 01 hr., 05 min., 55 sec. (remarks by Committee Chairman Representative David Ralston (R-7th)); see also Georgia General Assembly, HB 301, Bill Tracking, *supra* note 27.

48. See Video Recording of House Proceedings, Jan. 28, 2008, http://www.georgia.gov/00/article/0,2086,4802_6107103_103744292,00.html [hereinafter House Floor Video]. For a complete transcription of the House floor debate, see Transcript of House of Representatives Floor Debate, Jan. 28, 2008 (on file with the Georgia State University Law Review).

one “friendly” floor amendment to the bill.⁴⁹ The amendment removed the language on page 2, line 32 of the House Committee substitute “or for use as guard dogs” in order to close up what they saw as another loophole through which a dogfighter might get around conviction under the law.⁵⁰ Representative Reese explained that supporters of the amendment “were afraid . . . any group could have a bunch of dogs and say they were training them as guard dogs . . . even though they are fighting amongst each other. . . . [so] out of caution we decided to take that out.”⁵¹ Furthermore, Representative Reese indicated that they sought legal counsel who felt the language was too broad because guard dog was not defined anywhere in Georgia Code.⁵²

The amendment brought by the two Representatives sparked a rather lengthy debate on the House floor. Representative Steve Davis (R-109th) expressed concerns that the amendment would impact those people who keep dogs for security purposes.⁵³ However, Representative Reese assured Representative Davis that this amendment did not affect those individuals, and that citizens can still have guard dogs, just as long as they are not allowed to fight one another in an organized dogfight.⁵⁴

Apart from the debate on guard dogs and the amendment to the substituted bill, a few Representatives took the time to voice their general concerns regarding HB 301. Representative Debbie Buckner (D-130th) questioned Representative Reese on how the bill affected private land owners who might own hundreds of acres of land, and who also might have dogfighters coming onto their land to fight dogs without the landowner’s permission or knowledge.⁵⁵ Representative Reese assured her that the term “knowingly” in the bill took care of that problem, and for a person to be guilty of dogfighting they have to “knowingly” be involved in fighting the dogs, or allowing the fight to

49. See House Floor Video, *supra* note 48, at 50 min., 39 sec. (remarks by Rep. Bobby Reese (R-98th)). See also HB 301 (CSFA) 2008 Ga. Gen. Assem.

50. House Floor Video, *supra* note 48, at 50 min., 39 sec. (remarks by Rep. Bobby Reese (R-98th)). Compare HB 301 (HCS) 2008 Ga. Gen. Assem. with HB 301 (HCSFA) 2008 Ga. Gen. Assem.

51. House Floor Video, *supra* note 48, at 56 min., 03 sec. (remarks by Rep. Bobby Reese (R-98th)).

52. *Id.*

53. *Id.* at 55 min., 35 sec. (remarks by Rep. Steve Davis (R-109th)).

54. *Id.* at 56 min., 59 sec. (remarks by Rep. Bobby Reese (R-98th)).

55. See House Floor Video, *supra* note 48, at 57 min., 26 sec. (remarks by Rep. Debbie Buckner (D-130th)).

occur on their land.⁵⁶ Representative Lester Jackson (D-161st) wondered how the bill would affect a dog owner whose dog got into a fight with another animal that happened to come into the dog's yard.⁵⁷ Again, Representative Reese assured the Representative Jackson that persons could not be prosecuted under the new dogfighting law without knowingly participating in dogfighting, and that a random, accidental fight between dogs was not prohibited by the bill.⁵⁸

Representative Barry Loudermilk (R-14th) then expressed a concern that the bill would prevent private companies that train security dogs for the military or for private citizens from coming into the state and setting up operation, to which Representative Reese stated that the bill would not prevent that sort of legitimate business activity.⁵⁹ Finally, Speaker of the House Richardson attempted to end the debate and bring the bill up for a vote. However, when the Speaker asked if there were any objections, Representative Earnest "Coach" Williams (D-89th) requested a parliamentary inquiry with Representative Reese, which the Speaker granted.⁶⁰ Representative Williams asked Representative Reese how the bill would affect dogs that were in movies which were being filmed in Georgia.⁶¹ Representative Reese, finding humor in that question answered, that he consulted legal counsel who assured him that the bill would not affect those dogs because "the dogs [are] just acting."⁶² Speaker Richardson also told Representative Williams that he had no idea how the bill would affect dogs in movies, and at that point put the Roberts Amendment to the Committee Substitute of HB 301 up for a

56. *Id.* at 57 min., 59 sec. (remarks by Rep. Bobby Reese (R-98th)).

57. *Id.* at 01 hr., 00 min., 41 sec. (remarks by Rep. Lester Jackson (D-161st)).

58. *Id.* at 01 hr., 01 min., 00 sec. (remarks by Rep. Bobby Reese (R-98th)).

59. *Id.* at 01 hr., 03 min., 50 sec. (remarks by Rep. Barry Loudermilk (R-14th)). Interestingly Representative Loudermilk voted Nay for both the passage of the amendment and for passage of HB 301. His reasons for voting no were two-fold: first, he felt the bill decreased the impact of a felony in Georgia and that it represented an opportunity for the government to seize more power from the citizens, and second, he could not justify making it a felony to kill dogs when it is not a crime to take the life of an innocent baby. *See* Telephone Interview with Rep. Barry Loudermilk (R-14th) (June 4, 2008) [hereinafter Loudermilk Interview]; Georgia House of Representatives Voting Records, HB 301 (Jan. 28, 2008).

60. *Id.* at 01 hr., 13 min., 47 sec. (remarks by Rep. Earnest "Coach" Williams (D-89th)).

61. *See* Video Recording of House Proceedings *supra* note 48 at 1 hr., 13 min., 51 sec. (remarks by Rep. Earnest "Coach" Williams (D-89th)).

62. *Id.* at 01hr., 14 min., 39 sec. (remarks by Rep. Bobby Reese (R-98th)).

vote.⁶³ The Amendment passed 165 to 2,⁶⁴ and HB 301 was put up for a vote.⁶⁵ The Committee Substitute, Floor Amended version of HB 301 passed the house by a vote of 165 to 6, and was then transmitted to the Georgia Senate.⁶⁶

Consideration and Passage by the Senate

HB 301, which was sponsored in the Senate by Senator Chip Rogers (R-21st), was read in the Senate for the first time on January 29, 2008, at which time Lieutenant Governor Casey Cagle referred the bill to the Senate Agriculture and Consumer Affairs Committee.⁶⁷

The Senate Agriculture and Consumer Affairs Committee took the bill up for discussion on February 1, 2008, and proposed a major substitute to HB 301.⁶⁸ While they did not alter any of the substantive language in HB 301 as passed by the House of Representatives, the Senate Committee did propose the addition of four new sections to the bill.⁶⁹ Basically, the additional sections all amended Title 4 of the Official Code of Georgia Annotated, which is the Code section relating to animals.⁷⁰ The first additional section revises paragraph 6 of Code section 4-8-41 and amends the definition of “vicious dog” by expanding the definition to include any dog that inflicts a severe injury on a human being without provocation, regardless of whether that dog was kept for the purpose of fighting.⁷¹ The next additional section revised subsection (c) of Code section 4-11-9.3, relating to caring for an impounded animal by removing the language “engaged in dogfighting” and substituting “committed an act under Code Section 16-12-37.”⁷² Furthermore, the Committee substituted the

63. *Id.* at 1hr., 11 min., 35 sec. (remarks by Speaker of the House Glenn Richardson (R-19th)).

64. *See* Georgia House of Representatives Voting Records, HB 301 (Jan. 28, 2008).

65. *See* House Floor Video, *supra* note 48 at 1 hr., 14 min., 55 sec.

66. *See* Georgia House of Representatives Voting Records, HB 301 (Jan. 28, 2008).

67. *See* Georgia General Assembly, HB 301, Bill Tracking, *supra* note 27.

68. *See* HB 301 (SCS) 2008 Ga. Gen. Assem.

69. *See* 2008 House Judy NC Video, *supra* note 32 at 33 min., 11 sec. (remarks by Sen. Chip Rogers (R-21st)). These sections were added to bring HB 301 into compliance with a Georgia law known as the Mercedes Law. The Mercedes Law resulted from the passage of HB 1497 in 2006, a bill that set minimum state standards and requirements to control vicious dogs.

70. *Id.*; *see also* O.C.G.A. §§ 4-8-41, 4-11-9.3, 4-11-9.5, 4-11-17 (2006).

71. *See* HB 301(SCS), § 2-1(6)(A)-(B), 2008 Ga. Gen. Assem.

72. *Id.* at § 2-2(c).

“will” of sub subsections (1), (2), and (3) to “shall” in order to force compliance with the statute.⁷³ In the next additional section, which revised paragraph (b)(6)(B) of Code section 4-11-9.5, the Committee made the exact same changes.⁷⁴ Finally, in the last additional section, which revised subsection (a) of Code section 4-11-17, the Committee removed the language “dog fighting in violation” and substituted “an act prohibited under Code section 16-12-37.”⁷⁵ The Senate Agriculture and Consumer Affairs Committee favorably reported the substituted version of HB 301 on February 1, 2008.⁷⁶

HB 301 was read for the second time in the Senate on February 5, 2008, and for the third time in the Senate on March 12, 2008, at which time it was brought before the Senate body for debate.⁷⁷ At the outset of the floor debate, Senator Robert Brown (D-26th) and Senator Rogers offered two “simple” amendments.⁷⁸ First, the Senators added language, on page 2, lines 23–28, described by Senator Brown as requiring owners to be responsible for the costs of spaying or neutering dogs that were confiscated at dogfights.⁷⁹ Next, they added a section that allowed for the Act to become effective upon receiving the Governor’s signature, or upon becoming law without such approval.⁸⁰ The Amendments sparked no debate and were summarily approved by the Senate without objection.⁸¹ Thus, Lieutenant Governor Casey Cagle put the committee substituted floor amended version of HB 301 up for a vote. The measure passed unanimously by a vote of 54 to 0, and was on its way back to the House of Representatives for approval of the changes.⁸²

73. *Id.* at § 2-2(c)(1)–(3).

74. *Id.* § 2-3(B)(i)–(iii).

75. *Id.* at § 2-4(a).

76. *See* Georgia General Assembly, HB 301, Bill Tracking, *supra* note 27.

77. *See* Video Recording of Senate Proceedings, Mar. 12, 2008, http://www.georgia.gov/00/article/0,2086,4802_6107103_103744254,00.html [hereinafter Senate Floor Video]. For a complete transcription of the Senate floor debate, see Transcript of Senate Floor Debate, Mar. 12, 2008 (on file with the Georgia State University Law Review Office).

78. *Id.* at 01 hr., 14 min., 37 sec. (remarks by Sen. Chip Rogers (R-21st)).

79. *Id.* at 01 hr., 16 min., 29 sec. (remarks by Sen. Robert Brown (D-26th)); *see also* HB 301(SCSFA), § 1-1(d), 2008 Ga. Gen. Assem.

80. *See* Senate Floor Video, *supra* note 77 at 01 hr., 16 min., 29 sec. (remarks by Sen. Robert Brown (D-26th)); *see also* HB 301(SCSFA), § 3-1, 2008 Ga. Gen. Assem.

81. *Id.* at 01 hr., 17 min., 12 sec. (remarks by Lt. Gov. Casey Cagle).

82. *See* Georgia Senate Voting Records, HB 301 (Mar. 12, 2008).

Reconsideration and Passage by the House

The House of Representatives reconsidered the Senate substituted version of HB 301 on March 27, 2008.⁸³ Prior to reconsideration of the bill, HB 301's sponsor Representative Reese expressed his displeasure with the Senate's amendments, "This is not a spay-and-neuter bill This is a joke. I was quite angry when I saw it."⁸⁴ Representative Reese felt the amendment complicated what was intended to be a "'simple' bill to stiffen criminal penalties for those who participate in or watch dogfighting matches."⁸⁵ In response, Senator Chip Rogers said that the spay-and-neuter amendments are "not something that we are wedded to . . . [they're] not going to hold up the bill."⁸⁶ Following floor debate in the House, the controversial spay-and-neuter provision was removed from the bill, and the House Floor Amended Senate Substitute of HB 301 was put to a vote.⁸⁷ The bill passed with a vote of 163 to 2 and was sent back to the Senate for final reconsideration and approval.⁸⁸

Reconsideration and Passage by the Senate

On March 28, 2008, the Georgia Senate unanimously agreed to the House Amendment to the Senate Substitute of HB 301, approving it by a vote of 44 to 0.⁸⁹ Senator Rogers noted, "We should have done this a number of years ago, but I'll take what I can get . . . it means a lot to pet owners."⁹⁰ Governor Sonny Perdue signed the dogfighting bill into law at a ceremony held at the State Capitol on May 6, 2008.⁹¹

83. See Georgia General Assembly, HB 301, Bill Tracking, *supra* note 27.

84. S.A. Reid, *Spay Rule Could Delay Dogfighting Bill in the House*, ATLANTA J.-CONST., Mar. 13, 2008, available at http://www.ajc.com/metro/content/metro/stories/2008/03/13/dogfighting_0313.html.

85. *Id.*

86. *Id.*

87. See Georgia General Assembly, HB 301, Bill Tracking, *supra* note 27.

88. See Georgia House of Representatives Voting Records, HB 301 (Mar. 27, 2008).

89. See Georgia Senate Voting Records, HB 301 (Mar. 28, 2008).

90. Andrea Jones, *Amended Dogfighting Bill Heads to Governor*, ATLANTA J.-CONST., Mar. 29, 2008 at B4.

91. See Georgia General Assembly, HB 301, Bill Tracking, *supra* note 27.

The Act

The Act amends O.C.G.A. § 16-12-37 in two significant ways. First, the Act mandates tougher penalties for persons actually involved in the act of dogfighting.⁹² Unlike the previous dogfighting law in GA, this Act makes it illegal for any person to own, train, transport, or sell any dog, with the intent that the dog will be involved in dogfighting.⁹³ Furthermore, this Act increases the penalties for those persons convicted of participating in dogfighting by mandating that on a second or subsequent conviction, the punishment shall be imprisonment of one to ten years, a fine of at least \$15,000.00, or both.⁹⁴

Most importantly, however, this Act makes it illegal for a person to attend a dogfight, even if they do so only as a spectator.⁹⁵ While Georgia case law previously suggested that attending a dogfight only as a spectator was against the law,⁹⁶ this Act codifies that principle, and mandates harsh penalties for persons convicted under the law as spectators at a dogfight.⁹⁷

Analysis

The passage of the dogfighting bill was greeted with excitement by many groups, both outdoorsmen and animal rights activists alike, that had been anxiously watching the bill as it wound its way through the Georgia General Assembly. Cheryl McAuliffe, Georgia state director for The Humane Society of the United States, applauded the work of the Georgia Legislature and, upon the bill's passage in the Senate, urged that "this anti-crime measure [be] quickly sent to Gov. Perdue's desk for his signature, thereby giving our state's law enforcement agencies the tools that they need to stamp out this cruel

92. See O.C.G.A. § 16-12-37(b)(5) (Supp. 2008).

93. *Id.* at § (b)(1).

94. *Id.* at § (b)(5).

95. *Id.* at § (c).

96. See 2008 House Judiciary Video, *supra* note 32, at 33 min., 11 sec. (remarks by Sen. Chip Rogers (R-21st)).

97. See O.C.G.A. § 16-12-37(c) (Supp. 2008).

blood sport.”⁹⁸ The Act is the culmination of work started back in 2005 when both Representative Reese and Senator Chip Rogers first introduced tougher anti-dogfighting legislation.⁹⁹ While Representative Reese believes his bill contains no constitutional issues, and he authored a very tightly constructed piece of legislation, prosecutors could conceivably face one difficulty in prosecuting dogfighters under the new law.¹⁰⁰ How does one determine who is only a spectator versus who is actually participating in the dogfight? This minor detail, however, should not detract from the fact that, finally, Georgia has an anti-dogfighting law on par with the toughest laws in the nation, and the police and prosecutors have a means to go after violators, and put an end to dogfighting in Georgia.

Jason Grier

98. The Humane Society, *Georgia Legislature Passes Dogfighting Legislation*, http://www.hsus.org/press_and_publications/press_releases/georgia_legislature_passes_dogfighting_bill_031208.html (last visited June 4, 2008).

99. See Reese Interview, *supra* note 14; Georgia General Assembly, SB 229, Bill Tracking, http://www.legis.state.ga.us/legis/2005_06/sum/sb229htm.

100. See Reese Interview, *supra* note 14.

