

Ala. Code 1975, § 13A-11-261(c)

**Causing or Attempting to Cause Serious Physical Harm or Death of
Police Animal or Search and Rescue Animal**

The defendant is charged with causing or attempting to cause serious physical harm or death of a police animal or search and rescue animal.

A person commits the crime of causing or attempting to cause serious physical harm or death of a police animal or search and rescue animal if he/she intentionally and knowingly causes or attempts to cause serious physical harm or death of a police animal or a search and rescue animal.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant caused or attempted to cause serious physical harm or death of a police animal or search and rescue animal; **(AND)**
- (2) The defendant acted intentionally and knowingly.

[Read as appropriate]: *Serious physical harm* is any physical harm that carries a substantial risk of death, permanent or temporary maiming or disfigurement, or that causes pain or suffering of any gravity or duration. [13A-11-260(7)]

[Read as appropriate]: *Physical harm* is any injury, illness, or other impairment, regardless of its gravity or duration. [13A-11-260(4)]

A *police animal* is an animal, generally a dog or horse, which is not a human, with specialized training or in the process of specialized training, which is used by, and under the control of a peace officer, Class One Railroad Officer or special agent, or firefighter, in the performance of his/her duties. [13A-11-260(5)]

A *peace officer* is all sheriffs, deputy sheriffs, constables, municipal police officers, municipal policemen, state and town marshals, members of the highway patrol, state troopers, Alcoholic Beverage Control Board Enforcement Division agents, enforcement officers of the Public Service Commission, revenue agents, and persons who are required by law to comply with the provisions of the Peace Officers' Minimum Standards, employees of the Board of Corrections, highway camp guards, law enforcement officers of the Department of Conservation and Natural Resources, all law enforcement officers of the Alabama Forestry Commission, livestock theft investigators of the Department of Agriculture and Industries, Capitol security guards, narcotic agents and inspectors of the State Board of Health, any other state, county, or municipal officer engaged in quelling a riot, or civil disturbance, and university police officers. [13A-11-260(2); 36-30-1(a)(6)]

A *firefighter* is a member or members of a paid or volunteer fire department of a city, town, county, or other subdivision of the state or of a public corporation organized for the purpose of providing water, water systems, fire protection services, or fire protection facilities in the state; and shall include the chief, assistant chief, wardens, engineers, captains, firefighters, and all other officers and employees of such departments who actually engage in fire fighting or in rendering first aid in case of drownings or asphyxiation at the scene of action. [13A-11-260(2); 36-30-1(a)(5)]

A *search and rescue animal* is any animal with specialized training or in the process of specialized training, which is utilized for the principal purpose of aiding in the detection of missing persons, including, but not limited to, tracking persons who are lost or missing regardless whether living or deceased, sometimes referred to as a “SAR” animal. [13A-11-260(6)]

[Read as appropriate]: An owner or keeper of a dog or other animal, who fails to reasonably restrain the dog or animal from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police animal or search and rescue animal, is responsible for a violation of this statute in the same manner as if he/she knowingly caused or attempted to cause the violation. [13A-11-261(e)]

[Read as appropriate]: It does not matter whether the police animal or search and rescue animal is in the actual performance of assisting a handler in his/her duties or is off duty. [13A-11-262(a)]

[Read as appropriate]: If the police animal or search and rescue animal is in a containment area not in the immediate presence of the handler, this statute only applies to an offender who knows or should know at the time of the violation that the animal that is the subject of the violation is a police animal or search and rescue animal. [13A-11-262(b)]

A *containment area* is any area used to hold a police animal or search and rescue animal regardless whether on duty or off duty, including, but not limited to, a kennel, car unit, trailer, tent, staging area, stable, paddock, tie-out, or fenced area or pasture. [13A-11-260(1)]

A *handler* is a peace officer, firefighter, search and rescue person, or other specifically trained individual who uses a police animal or search and rescue animal in the performance of his/her duties. [13A-11-260(2)]

[Read as appropriate]: This statute does not prohibit a credentialed euthanasia technician, an authorized handler, or a veterinarian from euthanizing a police animal or search and rescue animal in an emergency if the animal is critically wounded and would otherwise endure undue suffering and pain. [13A-11-264(a)]

[Read as appropriate]: It is a defense that the accused person, acting as handler or as an employee or agent of the handler or employing agency, engaged in a reasonable act of training, handling, or discipline of the animal or reasonably believed the violating conduct was necessary to prevent serious physical harm or death of another person. [13A-11-264(b)]

A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense, when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]

A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of causing or attempting to cause serious physical harm or death of a police animal or search and rescue animal, then you shall find the defendant guilty of causing or attempting to cause serious physical harm or death of a police animal or search and rescue animal.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of causing or attempting to cause serious physical harm or death of a police animal or search and rescue animal, then you cannot find the defendant guilty of causing or attempting to cause serious physical harm or death of a police animal or search and rescue animal.

[If lesser-included offenses are included, the Court should instruct on those offenses at this point.]

[Approved 05/09/19]