WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 399

By Senators Weld, Deeds, Grady, Stuart, Takubo, Phillips, Taylor, Barrett, Rucker, and Hamilton

[Introduced January 12, 2024; referred  
to the Committee on the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-2-10c, relating to making it unlawful to harm, attempt to harm, or kill a police dog that is under the control of a law-enforcement or corrections officer who is acting in his or her official capacity; defining the term "police dog"; and setting forth penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-10c. Malicious assault; unlawful assault; battery; and assault on police dogs; definitions; penalties.

(a) For purposes of this section "police dog" means a dog used by a law enforcement or corrections agency that is specially trained for law enforcement or corrections work in the areas of including, but not limited to tracking, suspect apprehension, crowd control, or drug or explosives detection.

(b) Malicious assault. -- Any person who maliciously shoots, stabs, cuts or wounds or by any means causes bodily injury with intent to maim, disfigure, disable, or kill a police dog under the control of a law-enforcement or corrections officer acting in the officer's official capacity, and the person committing the malicious assault knows or has reason to know that the victim is acting in its official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not less than two nor more than ten years.

(c) Unlawful assault. -- Any person who unlawfully but not maliciously shoots, stabs, cuts, or wounds or by any means causes a police dog under the control of a law-enforcement or corrections officer acting in the officer's official capacity bodily injury with intent to maim, disfigure, disable, or kill it, and the person committing the unlawful assault knows or has reason to know that the victim is acting in its official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not less than one nor more than five years.

(d) Battery. -- Any person who unlawfully, knowingly, and intentionally makes physical contact with a police dog under the control of a law-enforcement or corrections officer acting in the officer's official capacity, and the person committing the battery knows or has reason to know that the victim is acting in its official capacity, or unlawfully and intentionally causes physical harm to that police dog acting in such capacity and the person committing the battery knows or has reason to know that the victim is acting in its official capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500 or confined in jail not less than one month nor more than twelve months or both fined and confined. If any person commits a second such offense, he or she is guilty of a felony and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned. Any person who commits a third violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than $2,000 or imprisoned in a state correctional facility not less than two years nor more than five years, or both fined and imprisoned.

(e) Assault. -- Any person who unlawfully attempts to commit a violent injury to a police dog under the control of a law-enforcement or corrections officer acting in the officer's official capacity and the person committing the battery knows or has reason to know that the victim is acting in its official capacity, or unlawfully commits an act which places that police dog acting in its official capacity in reasonable apprehension of immediately receiving a violent injury and the person committing the battery knows or has reason to know that the victim is acting in its official capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than twenty-four hours nor more than six months, fined not more than $200, or both fined and confined.

(f) Any person who violates this section and such violation results in the death of a police dog is guilty of a felony and, upon conviction thereof, shall be confined in a correction facility for not less than three nor more than fifteen years.

NOTE: The purpose of this bill is to make it unlawful to harm, attempt to harm, or kill a police dog that is under the control of a law-enforcement or corrections officer who is acting in his or her official capacity. The bill also defines the term "police dog" and sets forth penalties.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.