

Criminal Investigation Amendment (Protection of Law Enforcement Animals) Bill 2023

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Western Australia

LEGISLATIVE ASSEMBLY

**Criminal Investigation Amendment (Protection
of Law Enforcement Animals) Bill 2023**

A Bill for

An Act to amend the *Criminal Investigation Act 2006*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Criminal Investigation Amendment (Protection of*
3 *Law Enforcement Animals) Act 2023.*

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;
8 (b) the rest of the Act — on a day fixed by proclamation.

9 **3. Act amended**

10 This Act amends the *Criminal Investigation Act 2006.*

11 **4. Part 14 Division 1 inserted**

12 At the beginning of Part 14 insert:
13

14 **Division 1 — Offences**

15 **152A. Terms used**

16 In this Division —

17 ***apply force***, to an animal, includes to apply heat, light,
18 sound, electrical force, gas, odour or any other
19 substance or thing so as to cause injury or discomfort
20 to the animal;

21 ***assault***, an animal, means, either directly or indirectly,
22 to strike, touch or move the animal, or otherwise apply
23 force of any kind to the animal;

1 **circumstances of aggravation** means circumstances in
2 which during, or immediately before or after, the
3 commission of the offence —
4 (a) the offender is armed with a dangerous or
5 offensive weapon or instrument; or
6 (b) the offender is in company with another person
7 or persons;
8 **power, duty or responsibility**, of an officer who is not a
9 police officer, means a power, duty or responsibility
10 conferred on the officer by this Act;
11 **reasonable excuse** has a meaning affected by
12 sections 153C(2) and 153D.
13

14 **5. Sections 153A to 153E inserted**

15 After section 153 insert:
16

17 **153A. Harm to animals being used in execution of law**
18 **enforcement duties**

19 (1) A person who, without reasonable excuse, kills an
20 animal that is being used by an officer in the execution
21 of the officer’s powers, duties or responsibilities
22 commits a crime.

23 Penalty for this subsection: imprisonment for 10 years.

24 (2) A person who, without reasonable excuse, in
25 circumstances of aggravation, assaults or injures an
26 animal that is being used by an officer in the execution
27 of the officer’s powers, duties or responsibilities
28 commits a crime.

29 Penalty for this subsection: imprisonment for 10 years.

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1 (3) A person who, without reasonable excuse, assaults or
2 injures an animal that is being used by an officer in the
3 execution of the officer’s powers, duties or
4 responsibilities commits a crime.

5 Penalty for this subsection: imprisonment for 7 years.

6 Summary conviction penalty for this subsection:
7 imprisonment for 3 years and a fine of \$36 000.

8 **153B. Harm to law enforcement animals generally**

9 (1) A person who, without reasonable excuse, kills an
10 animal on account of the animal being an animal that is
11 used, or trained or maintained for use, by officers in the
12 execution of their powers, duties or responsibilities
13 commits a crime.

14 Penalty for this subsection: imprisonment for 10 years.

15 (2) A person who, without reasonable excuse, in
16 circumstances of aggravation, assaults or injures an
17 animal on account of the animal being an animal that is
18 used, or trained or maintained for use, by officers in the
19 execution of their powers, duties or responsibilities
20 commits a crime.

21 Penalty for this subsection: imprisonment for 10 years.

22 (3) A person who, without reasonable excuse, assaults or
23 injures an animal on account of the animal being an
24 animal that is used, or trained or maintained for use, by
25 officers in the execution of their powers, duties or
26 responsibilities commits a crime.

27 Penalty for this subsection: imprisonment for 7 years.

28 Summary conviction penalty for this subsection:
29 imprisonment for 3 years and a fine of \$36 000.

1 **153C. General provisions about reasonable excuse for**
2 **offences under s. 153A or 153B**

3 (1) In a prosecution for an offence under section 153A
4 or 153B, the accused has the onus of proving that the
5 accused had a reasonable excuse.

6 (2) In sections 153A and 153B, *reasonable excuse*
7 includes the following —

- 8 (a) being an officer acting in the course of
9 executing a power, duty or responsibility;
- 10 (b) acting with the consent of an officer or the
11 owner, or person in charge, of the animal that
12 was assaulted, injured or killed;
- 13 (c) providing veterinary care or treatment to the
14 animal that was assaulted, injured or killed;
- 15 (d) being a person authorised to train the animal
16 that was assaulted, injured or killed and acting
17 in the course of training the animal.

18 **153D. Reasonable excuse includes self-defence for offences**
19 **under s. 153A or 153B**

20 (1) In sections 153A and 153B, *reasonable excuse*
21 includes circumstances in which —

- 22 (a) the animal that was assaulted, injured or killed
23 was attacking, or threatening to attack, the
24 accused, another person or another animal; and
- 25 (b) the accused was defending the accused, another
26 person or another animal against the attack or
27 threatened attack; and
- 28 (c) the accused did not use more force than was
29 reasonably necessary.

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- 1 (2) Subsection (1) does not apply if —
- 2 (a) the animal that was assaulted, injured or killed
- 3 was being used by an officer in the execution of
- 4 the officer’s powers, duties or responsibilities;
- 5 and
- 6 (b) the use of the animal was not unreasonable in
- 7 the circumstances.
- 8 (3) Subsection (1) does not apply to an accused who, in the
- 9 course of, or for the purpose of, committing an
- 10 unlawful act, enters or attempts to enter a place or
- 11 vehicle —
- 12 (a) of which the person who has actual physical
- 13 custody or control of the animal that was
- 14 assaulted, injured or killed is the occupier; or
- 15 (b) occupied by the animal.
- 16 (4) Subsection (1) does not apply if —
- 17 (a) the accused provoked the attack or threatened
- 18 attack; or
- 19 (b) the accused permitted or encouraged another
- 20 animal to attack or threaten the animal that was
- 21 assaulted, injured or killed.

22 **153E. Compensation order relating to offences under**

23 **s. 153A or 153B**

- 24 (1) A court that convicts a person of an offence under
- 25 section 153A or 153B in relation to an animal may, on
- 26 application by the Commissioner of Police or the
- 27 prosecutor, order the person to pay all or some of the
- 28 reasonable expenses incurred or likely to be incurred as
- 29 a result of the offence in relation to —
- 30 (a) the treatment, care, rehabilitation or re-training
- 31 of the animal; or

