

Tethering

Current:

NRS 574.100 Torturing, overdriving, injuring or abandoning animals; failure to provide proper sustenance; requirements for restraining dogs and using outdoor enclosures; horse tripping; penalties; exceptions.

1. Except as otherwise provided in subsections 3 and 4 and NRS 574.210 to 574.510, inclusive, a person shall not restrain a dog:
 - Using a tether, chain, tie, trolley or pulley system or other device that:
 - Is less than 12 feet in length;
 - Fails to allow the dog to move at least 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or
 - Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or otherwise becoming entangled in the fence or object;
 - Using a prong, pinch or choke collar or similar restraint; or
 - For more than 14 hour during a 24-hour period.
2. Any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog. If any property that is used by a person to maintain a dog is of insufficient size to ensure compliance by the person with the provisions of paragraph (a) of subsection 2, the person may maintain the dog unrestrained in a pen or other outdoor enclosure that complies with the provisions of this subsection.

Purpose:

An Act to prevent animal suffering and death from being tethered to any object or while being transported outside of any vehicle cabin. NRS 574.100 currently addresses tethering but is insufficient because it doesn't adequately address injury to animals from prolonged and limited tethering. Current law allows for tethering to limit movement to 12 feet, up to 14 hours in a 24 hour period. BE IT ENACTED by the Senate and General Assembly of the State of Nevada modifying by adding these new provisions under NRS 574.120 - Failure to provide proper air, food, shelter or water to impounded animal unlawful,

Support:

- California passed legislation in 2018 limited tethering to no more than three (3) hours in a 24 hour period.
- As of 2018, twenty-three (23) states have laws that limit or otherwise control how owners can tether their dogs. Tethering or chaining a dog under most state laws means that a person ties a dog with a rope or line to a stationary object. While the laws themselves vary from state to state, they do have several consistent features. Some laws allow a dog to be tethered for a reasonable period of time.
- Other states include tethering as part of their anti-cruelty chapters. Indiana defines "neglect" as restraining an animal for more than a brief period and in a manner that endangers the animal's life or health by the use of a rope, chain, or tether."
- A person shall not tether a dog, cat or any other animal to a stationary object including, but not limited to, a structure, dog house, pole, tree or vehicle not longer than 5 hours in a 24-hour period or outside from 10:00 p.m. to 6:00 a.m., unless the tethering is for not more than 15 minutes and the animal is not left unattended by the owner, guardian or keeper.

Cruelty to Animals

NRS: Chapter 574.100

continued.....

Proposed legislative action revision to 574.100 (*see attached 2023 Senate Bill No. 269 341):

In order to protect the public safety and welfare, the following conditions shall apply when tethering or keeping an outdoor dog or cat:

1. No person shall tether a dog or cat to a stationary object unless such person is outside with the dog or cat and the dog or cat is at all times visible to such person.
2. A person shall not leave a dog or cat outside when a weather advisory, warning or watch is issued or the region by a local, state or federal authority or when outside environmental conditions including, but not limited to, if the outdoor temperature is too hot or cold for a human to be comfortable;
3. Temperatures lower than 50 degrees and higher than 85 degrees Fahrenheit. This also includes weather that will pose adverse risk to the health or safety of the animal, due to cold or hot weather, wind, rain, snow or hail based on the animals breed, age or physical condition, unless the tethering is for not more than 15 minutes.
4. An exception to a restriction on outdoor confinement under this section that is reasonably necessary for the safety of a dog that is:
 - present in a camping or recreational area pursuant to the policy of the camping or recreational area; or
 - actively engaged in conduct that is directly related to the business of shepherding or herding cattle or other livestock or engaged in conduct that is directly related to the business of cultivating agricultural products.
5. Animal control may enforce this section following the same procedures relating to notice and court notice and court procedure for the non-criminal disposition of a violation.
6. Prohibit tethering for nursing mothers and animals four months old or younger;
7. Tether must be constructed of material sufficient to restrain the dog or cat but may not place the dog or cat in danger of injury or death and permit the animal to move freely such that its health and life is not in danger;
 - Logging or towing metal chains are prohibited and may not be used, as they can lead to long-term medical issues to the neck and spine;
8. May only tether with a properly fitting body harness with an operative swivel, to prevent choking by a collar;
 - Cannot use prong or static shock collars; must use a body harness,
9. Each dog and cat shall be provided access to clean water and food at all times in spill proof containers and sized appropriately for the dog or cat's size and sufficient supply of species appropriate, wholesome food; and
10. Outdoor enclosure for dog or cat is; a fenced yard, kennel or run and must include the following:
 - Shall be provided with shelter appropriate to its breed, size, physical condition and the climate;
 - Shade or protection during all hours for all dogs or cats must be provided without overcrowding during heat or cold within shelter of tether reach;
 - October through April, a shelter must have heavy flaps to cover doors and windows, and floor must be covered with a minimum of several inches of clean, dry (quick drying) bedding. May through September, the run and structure must have and be placed in the shade.
 - Shall be kept free from accumulated waste, trash, standing water, parasites and rodents.
11. Conviction with a fine of up to \$250 for each animal or a seven day sentence in county jail.
12. If convicted of tethering multiple times, animal(s) must be surrendered to animal rescue groups and not be allowed to own or care take for another animal.

¹ Please refer to the hyperlink, that is where this information was pulled from www.animallaw.info



Tethering Overview and Case Law

By Claudine Wilkins and Jessica Rock, Founders of Animal Law Source™

BACKGROUND

“**Tethering**” refers to keeping an animal tied to a stationary object in order to confine the animal’s movement. “**Continuous tethering**” refers to the practice of attaching an animal with a restraint, usually a rope or chain, to a stationary object, like a porch, dog house, or fence post for long periods of time. “**Continuous tethering**” allows the animal to be concealed from view due to its restricted movement, usually in the owner’s backyard. “**Continuous Tethering**” may include partial restraint on a rope, chain or pulley. A “**pulley run**” refers to attaching an animal leash to a long line which allows the animal to have a bigger area to roam. “**Chaining**” refers to situations where thick heavy chains are attached to a stationary object and then attached to the dog’s neck to restrain the animal. Heavy chains can result in serious neck injuries because the dog constantly pulls against the neck chain to try and escape.

Tethering and chaining have been used for centuries to restrain dogs. Similar restraints have been used on guard dogs to ensure that the dogs stayed near an entrance rather than wandering off. Chaining has been used for arctic sled dogs and cold weather breeds such as Alaskan Malamutes and Siberian Huskies because pens were not a practical option on a sled dog trail, and cold weather breeds tended to fight when confined together. Hunters have often kept hunting dogs chained during a hunt, dog breeders have often used chain tethers to restrict large numbers of dogs instead of keeping them in expensive pens, and dogfighters have kept their dogs chained to maintain control and to instill aggression.

Presently, most neighborhoods have leash laws that require dogs to be “on leash” when not confined. For example, **Georgia Code §51-2-7** provides an owner to be liable for damages of injury to another person if their animal injures a person while their animal is “off leash.” As a result, many city and suburban dwellers use tethering as a means to restrict their dog because (1) they do not have access to a fenced yard, (2) landlords do not allow the dog to stay inside their apartment or home on a permanent basis, (3) the dog is an escape artist that chews through a regular leash, (4) they do not have any other financially feasible option to keep their animal restrained while the dog is outside, (5) the dog’s behavior is challenging, and the owner does not know how else to control the dog, (6) the family is unaware of any other means of restraint because tethering has been the acceptable way to confine a pet in the past.

WHY TETHERING IS PROBLEMATIC

To become well-adjusted, dogs should interact regularly with people and other animals, and should receive regular exercise. Tethering becomes problematic when the owner is uneducated about how to properly care for an animal, or when an owner has an “out of sight, out of mind” attitude that becomes a liability to provide adequate exercise, medical treatment, socialization, and a healthy diet. Problems occur when:





- (1) The dog's living space becomes uninhabitable. Dogs eat, sleep, urinate, and poop in the small tethered area that is less likely to be cleaned. Any grass is usually beaten down by the dog's pacing back and forth on the tether, leaving the dog to survive on a narrow dirt path;
- (2) Chained dogs frequently become entangled in their chains, unable to access food, water, and shelter. The animal's food and water bowls are sometimes turned over by the tether leaving the animal dehydrated and underfed. Tethered dogs cannot protect themselves from very hot summers or very cold winters, insects, other animals, or cruel people who may torment them. Dehydration, sun stroke, and hypothermia are common in tethered dogs;
- (3) Some dogs accidentally choke themselves to death trying to escape; in many cases, the necks of chained dogs become raw and covered with sores, the result of improperly fitted collars and the dogs' constant yanking and straining to escape confinement. Some chained dogs have collars embedded in their necks after years of neglect at the end of a chain;
- (4) Chained dogs are most likely unvaccinated, unlicensed, ignored and mistreated. In addition to having their social needs ignored, many chained dogs are left in complete isolation, are deprived of proper food, water, shelter, and veterinary care, and lack appropriate learning experiences to make them a more social animal;
- (5) Unattended and neglected tethered dogs suffer severe psychological and physical trauma. Dogs are social pack animals that need to live near people or other companion animals. Tethered dogs become isolated and bored which can lead to increased aggression over time. A dog kept alone and chained in one spot for hours, days, months, or even years suffers immense psychological damage. An otherwise friendly and docile dog, when kept continuously chained and ignored, becomes neurotic, unhappy, anxious, and often aggressive;
- (6) Chained dogs will become aggressive if left alone for long periods of time. Dogs are protective of their territory; when confronted with a threat their fight-or-flight instinct kicks in. A chained dog, unable to take flight, often feels forced to fight. As a result, chained dogs become territorial and aggressive when a strange dog or person enters their domain. They are more likely to injure people if **and when** they manage to break free, or when a person enters their tethered area;
- (7) Neglected and aggressive tethered dogs have become a public safety risk. A 2013 study reported in the Journal of the **American Veterinary Medical Association**, (AVMA), found that 76% of dog attacks that resulted in human deaths involved dogs who were isolated from regular human interaction or were not integrated into the family. The study found that an unusually high number of dog bites involved a tethered dog. Even though tethered dogs cannot chase people due to limited movement, 17% of reported dog bites and dog bite-related fatalities involved tethered dogs. Over the last 50 years, a quarter of all dog bite-related fatalities involved chained dogs.
- (8) Tethering laws cut down on calls to Animal Control from citizens concerned about animals in cruel chained situations. Animal control officers, paid by taxpayers, spend many hours trying to educate pet owners about the dangers and cruelty involved with continuous tethering. Also, regulations against chaining give officers a tool to crack down on gang activity and illegal dog fighting, since many gang members and dogfighters keep their dogs on chains (See Appendix I for current case law).





INCEPTION OF ANTI-

TETHERING STATE LAWS Providing dogs with secure housing, exercise, playtime, and socialization is a requirement for

all dog owners. In recent years, tethering as a method of confinement for dogs, has become a controversial topic, and numerous proposals to ban or restrict tethering have been introduced in many state legislatures to address these concerns. As a result, many state laws have been passed to address the issue of tethering companion animals, specifically dogs.

Anti-tethering ordinances have become a way to promote compassionate and humane treatment of companion animals. But, an ordinance is only as good as its enforcement. The more specifically and carefully an ordinance is written, the more effective the enforcement can be. Restricting the tethering of dogs, gives law enforcement a tool to educate and to require an owner to make changes to improve the quality of life for their animal. Tethering laws, therefore, become a means to elevate the standard of care for those dogs that live outside most of the time. However, the actual laws that regulate and restrict tethering vary greatly from state to state.

Some state laws allow tethering for short periods of time or when the owner is present, while others allow tethering as long as the animal can reach food, water and shelter. Some states define the method and time the dog can be tethered in great detail. Others simply limit the number of hours in a 24-hour period that a dog can be tethered. Others specify exact times of day and focus on the dangers of extreme temperatures and the vulnerability particularly of young animals left on a tether. Also, even though the specific term “tethering” is not mentioned, many state animal cruelty statutes, could be interpreted to prohibit tethering when it is detrimental to the animal. For example, “neglect” or “omission of proper care” may include continuous tethering if it endangers the animal’s life (See Appendix II for Georgia laws).

According to the **American Veterinary Medical Association (AVMA)**, twenty-five states, D.C., and over 140 U.S. cities and counties have laws banning or carefully regulating tethering. The states with tethering laws include AZ, CA, CT, DC, DE, FL, HI, IL, IN, LA, MA, ME, MD, MI, MO, NC, NV, OR, PA, RI, VA, TN, TX, VA, VT, and WVA. **Georgia** does not have a state law banning tethering altogether, but has a myriad of different tethering ordinances depending on which county or city the dog resides

GEORGIA LAW

For example, chaining dogs became illegal in Fulton County in September of 2009. However, the law continues to allow dogs to be tethered when the **owner is present**, but only with a properly fitting collar that is not excessively heavy, which is supposed to exclude chains wrapped around their necks. Other Georgia counties and cities with ordinances that ban tethering **unless a person is with the animal** include: Athens-Clarke County, Bainbridge, Bibb County, Blakely, Chatham County, College Park, Douglas County, Fulton County, Gwinnett County, Houston County and the City of Madison.

Other Georgia counties and cities with a variety of different tether ordinances include: Albany, Barrow County, Cherokee County, Cobb County, DeKalb County, Gainesville, Hinesville, LaGrange, Liberty County, Macon, Meriwether, Spalding County, Statham, and Toccoa.

For example, Rockdale County allows a trolley to be used if it is inside a fenced area. Several Georgia state laws do not require the owner to be present with the animal, even though “tethering” is not mentioned. **Georgia Code §16-12-4 (b)** provides a misdemeanor penalty if: “A



person commits the offense of cruelty to animals when he or she: (1) **Causes physical pain, suffering, or death to an animal by any unjustifiable act or omission**; or (2) Having intentionally exercised custody, control, possession, or ownership of an animal, fails to provide to such animal adequate food, water, sanitary conditions, or ventilation that is consistent with what a reasonable person of ordinary knowledge would believe is the normal requirement and feeding habit for such animal's size, species, breed, age, and physical condition.

A dog owner can be charged with a felony under **Georgia Code §16-12-4 (d)** if: A person commits the offense of aggravated cruelty to animals when he or she: (1) Maliciously causes the death of an animal; (2) Maliciously causes physical harm to an animal by depriving it of a member of its body, by rendering a part of such animal's body useless, or by seriously disfiguring such animal's body or a member thereof; (3) Maliciously tortures an animal by the infliction of or subjection to **severe or prolonged physical pain**; (4) Maliciously administers poison to an animal, or exposes an animal to any poisonous substance, with the intent that the substance be taken or swallowed by the animal; or (5) Having intentionally exercised custody, control, possession, or ownership of an animal, **maliciously fails to provide to such animal adequate food, water, sanitary conditions, or ventilation** that is consistent with what a reasonable person of ordinary knowledge would believe is the normal requirement and feeding habit for such animal's size, species, breed, age, and physical condition to the extent that the death of such animal results or a member of its body is rendered useless or is seriously disfigured.

GOVERNMENTAL AND ANIMAL RIGHTS GROUP'S OPPOSITION

In 1997, the **United States Department of Agriculture (USDA)** ruled that people and organizations regulated by the Animal Welfare Act cannot keep dogs continuously chained ("Final Tethering Rule," Federal Register, Rules and Regulations (Washington: GPO Aug. 13, 1997) 62(156): 43273-43275). The USDA has stated, "Our experience in enforcing the Animal Welfare Act, (Title 7 U.S.C. Sec. 2131 et seq.), and its regulations, (Title 9, C.F.R.), has led us to conclude that **continuous confinement of dogs by a tether is inhumane**. A tether significantly restricts a dog's movement. A tether can also become tangled around or hooked on the dog's shelter structure or other objects, further restricting the dog's movement and potentially causing injury."

The **USDA and Animal and Plant Health Inspection Service (APHIS)** prohibits facilities regulated under the Animal Welfare Act from using tethering as a means of primary enclosure for dogs unless approved in writing. This rule was subsequently clarified to recognize that under very limited circumstances the use of tethering may be appropriate. APHIS additionally stated that the rule did not intend to imply that tethering of dogs under **all** circumstances is inhumane, nor that tethering under any circumstances must be prohibited. Other organizations, however, have come out strongly to discourage the tethering of any animal at any time.

The **American Veterinary Medical Association (AVMA)** has come out publicly against dog tethering. In a press release for Dog Bite Prevention Week, the AVMA stated, "Never tether or chain your dog because this can contribute to aggressive behavior." According to the **Association of Shelter Veterinarian's Guidelines for Standards of Care in Animal Shelters**, "Tethering is an unacceptable method of confinement for any animal and has no place in humane sheltering. Constant tethering of dogs in l





The **Centers for Disease Control** (CDC) concluded in a 2002 study that the dogs most likely to attack are male, unneutered, and **chained**. The statistics from the CDC concluded that “**chained dogs** kill as many children as do firearms, and more than falls from trees, playground equipment and fireworks accidents put together.”

In 2007, the organization **Mothers against Dog Chaining** logged 81 serious attacks on children by chained dogs. The organization, now called **Parents against Dog Chaining**, reported that since

October 2003, there have been at least 357 children killed and/or seriously injured by chained dogs in this country.

Other studies have shown that chained dogs are at a greater risk of biting people than dogs who don't live on chains. According to one study, a **chained dog is 2.8 times** more likely to bite, and frequently, the victims are unsuspecting children (Gershman, Sacks and Wright, “**Which dogs bite? A case-control study of risk factors**,” **Pediatrics** 93 (1994):913–917).

The **Humane Society of the U.S.** (HSUS) recommends a combination of approaches to reduce tethering. They suggest that laws that regulate and restrict tethering are helpful, but community based initiatives and positive intervention to educate dog owners about the dangers of leaving their dogs tethered for long periods of time should be the main focus.

The HSUS believes “that dogs are part of the family. We recommend that all dogs live indoors, receive regular exercise, and are provided with adequate attention, food, water and veterinary care. Dogs living outdoors part or all of the time should be provided with a safe, escape-proof enclosure with proper shelter, where they may express natural behaviors. Placing an animal on a restraint can be acceptable if it is done for a short period or while supervised, and if the tether is secured in such a way that it cannot become entangled with other objects. Collars should be comfortable and fitted properly; choke chains should never be used. Keeping an animal tethered for long periods or during extreme weather and natural disasters is never acceptable.” If you consider your dog a part of the family, it should never be left indefinitely on a tether.

REFERENCES

<http://forallanimals.org/dog-tethering>

<http://www.humanesociety.org/animals>

<https://www.animallaw.info/topic/table-state-dog-tether-laws>

<http://www.unchainyourdog.org>

http://www.paw-rescue.org/PAW/PETTIPS/DogTip_BackyardDogs.php <http://pacc911.org/chained-dogs>

Patronek, G.J., Sacks, J.J., Delise, K.M., Cleary, D.V., & Marder, A.R. (2013). “Co-occurrence of potentially preventable factors in 256 dog bite-related fatalities in the United States (2000-2009),” **Journal of the American Veterinary Medical Association**, 243(12), 1726-1736.

www.avma.org/Advocacy/StateAndLocal/Pages/sr-animal-tethering-prohibitions.aspx

<http://thebark.com/content/breaking-chain>

<http://www.chainfreeasheville.org/facts-about-chaining>

APPENDIX I – CASE LAW





Huff v. Dyer, 678 S.E.2d 206, 297 Ga. App. 761 (Ga. App., 2009) In construing statutes, including local ordinances, courts should follow the plain meaning of the statutory language. Here, the ordinance considers an unsupervised dog to be sufficiently restrained when it is prevented from running at large by a leash or the occupant enclosure of a vehicle, by a physical barrier when it is on the owner's real property, and by any type of restraint when the dog is within the cargo area of a truck. The ordinance does not protect people who approach restrained animals, regardless of whether the animal is at heel, on a leash, or restrained in the bed of a truck. Huff admitted that she approached the Dyers' dog, and it was undisputed that the **chains prevented the dog from escaping** from the truck's cargo area. As a result, we find that the Dyers' dog was "under restraint" pursuant to the Hall County Animal Control Ordinance as a matter of law. The evidence was therefore more than sufficient to support the jury's conclusion that the Dyers' dog was "under restraint" as required by the ordinance, and the trial court did not err in denying Huff's motion for a directed verdict. Judgment affirmed.

Cormier v. Willis, 12 FCDR 279, 313 Ga.App. 699, 722 S.E.2d 416 (Ga. App., 2012)

On the morning of July 2, as Cormier sat in her car in the driveway, **Kain was chained on the porch**. But he slipped out of his collar, ran and jumped into Cormier's car through the open front passenger window, and bit Cormier on the elbow. Cormier began honking the car horn, and Carmaleita Willis came outside and called for Kain. The dog immediately let go of Cormier's arm, jumped out of the car and went to Carmaleita Willis. Cormier argues that the trial court erroneously failed to consider a **local ordinance** which purportedly establishes more stringent liability standards for dog owners than OCGA § 51-2-7. However, Cormier has not provided a record reference for the local ordinance, and Willis asserts that it is not in the record. Indeed, our review of the record does not reveal any copy of the local ordinance. Cormier sued both Joseph and Carmaleita Willis pursuant to OCGA § 51-2-7, which provides that "[a] person who owns or keeps a vicious or dangerous animal of any kind and who, by careless management or by allowing the animal to go at liberty, causes injury to another person who does not provoke the injury by his own act may be liable in damages to the person so injured." The trial court **granted summary judgment to Joseph Willis, finding that he did not own or keep the dog as contemplated by OCGA § 51-2-7.** Cormier appeals. Cormier's reliance on **Johnston v. Warendh**, 252 Ga.App. 674, 679(5) 556 S.E.2d 867 (2001), to further argue that there is a triable issue as to whether Carmaleita Willis was acting as her father's agent at the time of the incident is misplaced. Not only did Johnston, unlike this case, involve a local ordinance that was properly proved, but the triable agency issue in that case was whether the absentee owner of a dog had an agent keeping his dog inside a house while he was gone. Since, as recounted above, Carmaleita Willis is the owner of the dog, she was not acting as her father's agent in keeping her own dog, and thus, Johnston is inapposite. Judgment affirmed.

Kringle v. Elliott, 686 S.E.2d 665 (Ga. App., 2009)

On the day of the incident, Steven went into Elliott's backyard to play with some other neighborhood children. Elliott's golden retriever, Skip, **was on a chain** in the fenced backyard. There were other children in the backyard, including a little girl who was playing with the dog when Steven was bitten **on a trampoline for a while** and then went over to pet the





because "the dog looked nice." When he reached out to pet the dog, "it jumped on [him] and bit [him]." Georgia generally adheres to the "first bite" rule in deciding whether a dog owner has knowledge that his dog has the propensity to bite someone. This rule, however, does not "literally

require a first bite." At trial, the trial court granted Elliott's directed verdict motion on the ground that because this was the dog's first bite of a human, under Georgia's "first bite" rule there was no cause of action. Kringle appeals contending that the trial court erred in granting Elliott's motion in limine to exclude evidence which Kringle argues created an inference that the dog had attacked other animals, and in directing a verdict in Elliott's favor. Because the excluded evidence did not indicate the owner had any reason to suspect the dog had a propensity to bite, the trial court did not abuse its discretion in granting the motion or directing a verdict in Elliott's favor. Judgment affirmed.

Burke v. State, 333 Ga. App. 738, 776 S.E.2d 821 (Ga. App., 2015)

David Hudgins, testified that on December 18, 2008, he saw Burke riding a bicycle toward the house with Black Girl walking beside him on a **heavy gauge chain**. When he arrived at the house, Burke got off the bike and began beating the dog with the chain while it was still attached to the dog. Burke's girlfriend came out of the house and told him to stop beating the dog, at which point he started beating the dog with a garden hoe, which broke after he hit the dog multiple times in the head. Hudgins testified that the beating lasted seven to ten minutes and that Burke rode away on his bicycle after he stopped beating the dog. Appellant Anthony Bernard Burke was **convicted by a jury of aggravated cruelty** to an animal (Count 1), giving a false name to a police officer (Count 2), and two counts of influencing witnesses (Counts 3 and 4). He appeals following the denial of his motion for new trial, as amended, arguing that the trial court erred by admitting multiple post-mortem photographs of the animal, a pit-bull bred canine, and that the evidence was insufficient to convict him of the crime of tampering with a witness as charged in Count 3 of the indictment. We find no merit to these contentions and affirm.

P e o p l e v . L a n d , 2 0 1 1 I L A p p (1 s t)
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At trial, defendant admitted that she and her boyfriend purchased a **heavy industrial tow chain** to use as a collar for their pitbull dog. Defendant claimed that they did this because the dog had broken free from other collars, and they wanted to keep him from running away. On July 28, 2008, after receiving a citizen's complaint about a dog being left outside in hot weather without water or shelter, the investigating officer observed the chain wrapped around the dog's neck and instructed defendant that a tow chain was not a proper collar for a dog and that she had to change it. On November 30, 2008, a veterinarian euthanized the dog after observing a large **gaping hole in the dog's neck** and a tow chain wrapped around the dog's neck, with the chain embedded in the neck and coming through the hole. During the defense's opening statement at trial, defendant's sole defense was that her act was stupid but not criminal. Defendant Jenell Land was found guilty by a jury of aggravated cruelty to a companion animal, a Class 4 felony and sentenced to 30 months' probation and assessed fines of \$1,000.00. The conditions of her probation included prohibition against any contact with pets or animals and any consumption of any alcohol, marijuana, or other substances. For the foregoing reasons, we affirm defendant's conviction.





Carmical v. Bullock, 251 S.W.3d 324 (Ky. App., 2007)

Bullock owned two Great Danes, Kayla, which was pregnant, and Jake, a male. Both animals were kept confined in the backyard. Bullock had moved Jake away from Kayla's pen and had him **tethered to a staked 30-foot chain**. Bullock testified the chain would have kept Jake approximately 20 feet from the driveway near the house. Regrettably, Carmical suffered serious injuries, including multiple wounds to his right forearm, left and right hands, rib cage and shoulder. Throughout the attack, Jake **remained tethered** to the staked chain. Carmical filed suit in the Madison Circuit Court alleging Bullock was strictly liable for his damages. The court held that the Defendant, Keith Bullock, failed to exercise ordinary care to control his dog for the safety of others, and that such failure was a substantial factor in causing the Plaintiff's injuries. The Wisconsin court held that, while the state's dog bite statute creates a strict liability action, negligence principles are still applicable as the dog owner's liability is expressly subject to the doctrine of comparative negligence. The jury verdict and judgment of the Madison Circuit Court are affirmed.

Hawkins v. Hale, 185 So.3d 1076 (Miss. App., 2016)

~~On April 17, 2013,~~ Hale's dog, a Labrador Retriever, escaped from **chain restraints** in Hale's backyard and ran toward Hawkins and his wife while they were in the street in front of Hale's house. Blackwell observed the Hawkinses provoking the dog by yelling and gesturing at him while he was still in Hale's yard. The dog **broke from his chains**, ran toward the Hawkinses, and barked aggressively at them. Blackwell intervened, retrieved the dog, and brought him back into Hale's yard. Two to five minutes later, the dog returned and bit Hawkins on the leg. Again, Blackwell retrieved and returned the dog to the backyard. However, this time, the dog was chained when it was returned. At this point, Blackwell first notified Hale of what had transpired. Therefore, Hawkins's argument is without merit. The dog was then **chained** in Hale's backyard. On June 14, 2013, Hawkins filed a personal-injury lawsuit against Hale, seeking damages for injuries sustained as a result of the dog bite. Curtis Hawkins appeals from an order affirming the grant of summary judgment in favor of Daniel Hale. The County Court of Coahoma County granted summary judgment, in part, based on deemed admissions by Hale. The Circuit Court of Coahoma County affirmed the county court's order granting summary judgment. Finding no error, we affirm.

Diaz ex rel. Diaz v. Henderson, 2012 Ohio 1898 (Ohio App., 2012)

The Hendersons are the owners of a single-family residence located on North E Street in Hamilton, Ohio. In July 2006, Diane Huffman rented the residence from the Hendersons. At the time she started renting the residence, Huffman owned a dog which she kept at the residence. The record indicates that the Hendersons were aware of the dog's presence in the residence. Diaz asserts that the dog is a pit bull. Huffman took the dog out of the house and **chained him to the backyard fence with a 30-foot leash**. The dog lay down and went to sleep. Moments later, Diaz's daughter, three year old Jaretzy wandered into Huffman's yard, tripped over her shoes, and fell onto the dog. Startled the dog bit Jaretzy in the face. Jaretzy suffered several lacerations on the face which required surgery. In December 2010, Diaz filed a complaint against the Hendersons and Huffman alleging both strict liability and common law negligence claims. The Hendersons moved for summary judgment on the





ground they were not liable for Jaretyz's injuries because they were not the owner, keeper, or harborer of the dog. Huffman also moved for summary judgment. On August 30, 2011, the trial court denied Huffman's motion but granted the Hendersons' motion. The trial court found that the Hendersons did not harbor the dog, and therefore, were not liable for Jaretyz's injuries under either a strict liability or common law negligence claim.

We find no evidence in the record demonstrating that a genuine issue of material fact exists as to whether the Hendersons harbored the dog as required under R.C. 955.28(B), or harbored the dog with knowledge of its vicious propensities under common law. As a result, the trial court properly granted summary judgment to the Hendersons as to both Diaz's statutory and common law claims. Diaz's assignment of error is overruled.

Judgment affirmed.

APPENDIX II – GEORGIA LAW

O.C.G.A. §51-2-7 - A person who owns or keeps a vicious or dangerous animal of any kind and who, by careless management or by allowing the animal to go at liberty, causes injury to another person who does not provoke the injury by his own act may be liable in damages to the person so injured. In proving vicious propensity, it shall be sufficient to show that the animal was required to be at heel or on a leash by an ordinance of a city, county, or consolidated government, and the said animal was at the time of the occurrence not at heel or on a leash. The foregoing sentence shall not apply to domesticated fowl including roosters with spurs. The foregoing sentence shall not apply to domesticated livestock.

O.C.G.A. §16-12-4 (b) - A person commits the offense of cruelty to animals when he or she:
(1) Causes physical pain, suffering, or death to an animal by any unjustifiable act or omission; or
(2) Having intentionally exercised custody, control, possession, or ownership of an animal, fails to provide to such animal adequate food, water, sanitary conditions, or ventilation that is consistent with what a reasonable person of ordinary knowledge would believe is the normal requirement and feeding habit for such animal's size, species, breed, age, and physical condition.

O.C.G.A. §16-12-4 (d) - A person commits the offense of aggravated cruelty to animals when he or she:

- (1) Maliciously causes the death of an animal;
- (2) Maliciously causes physical harm to an animal by depriving it of a member of its body, by rendering a part of such animal's body useless, or by seriously disfiguring such animal's body or a member thereof;
- (3) Maliciously tortures an animal by the infliction of or subjection to severe or prolonged physical pain;
- (4) Maliciously administers poison to an animal, or exposes an animal to any poisonous substance, with the intent that the substance be taken or swallowed by the animal; or
- (5) Having intentionally exercised custody, control, possession, or ownership of an animal, maliciously fails to provide to such animal adequate food, water, sanitary conditions, or ventilation that is





consistent with what a reasonable person of ordinary knowledge would believe is the normal requirement and feeding habit for such animal's size, species, breed, age, and physical condition to the extent that the death of such animal results or a member of its body is rendered useless or is seriously disfigured.





Thank you for your review and consideration.

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