

SB 241 - AN ACT INCREASING THE PENALTIES FOR THE INTENTIONAL INJURY OR KILLING OF POLICE ANIMALS OR DOGS IN VOLUNTEER SEARCH AND RESCUE TEAMS.

JUDICIARY COMMITTEE PUBLIC HEARING
MARCH 9, 2018

Testimony of Attorney Richard Taff, Glastonbury, CT

Members of the Judiciary Committee:

I write to call your attention to the increased penalties proposed in this bill and why they should give you pause.

Although no one believes that persons who intentionally injure or kill police animals or rescue dogs should not be punished, the penalties proposed in this bill are *excessive* and *disproportionate*, and represent another example of *penalty creep*.

Excessive and disproportionate penalty

A basic tenet of a rational criminal sentencing scheme is that the penalty prescribed for a crime should be in proportion to the severity of the crime itself.

How do the penalties proposed in this bill compare to the penalties prescribed for other crimes? Does the proposed punishment fit the crime?

Section 1 of the bill proposes to increase the penalty for intentionally injuring an animal in the performance of its duties under the supervision of a peace officer, or a dog in the performance of its duties under the supervision of a volunteer canine search and rescue team member from a class D felony to a **class C felony**.

A class C felony is punishable by a maximum fine of \$10,000 or a maximum term of imprisonment of 10 years, or both.

The proposed penalty would be the same as prescribed in Section 53a-56b for ***manslaughter with a motor vehicle in the second degree***, that is, the same penalty as for *a person who, while operating a motor vehicle under the influence of intoxicating liquor or any drug or both, causes the death of another person as a consequence of the effect of such liquor or drug.*

It also should be noted that the comparable federal law prescribes a maximum term of imprisonment of one year for harming a police animal, one-tenth the penalty proposed in this bill. (See 18 USC 1368)

Section 2 of the bill proposes to increase the penalty for intentionally killing such an animal or dog from a fine and prison term that is equivalent to a class C felony to a **class B felony**.

A class B felony is punishable by a maximum fine of \$15,000 or a maximum term of imprisonment of 20 years, or both.

The proposed penalty would be the same as prescribed in Section 53a-55 for **manslaughter in the first degree**, that is, the same penalty as for a *person who, with intent to cause serious physical injury to another person, causes the death of such person or of a third person.*

It should also be noted that the comparable federal law prescribes a maximum term of imprisonment of 10 years for killing a police animal, one-half the penalty proposed in this bill. (See 18 USC 1368)

Penalty creep

Too often, the legislative response to a problem, whether real or perceived, is to *increase the penalty*.

It is not always for sound policy reasons, but because of a headline-making incident, or because a sentence imposed by a judge in one case was deemed too lenient by certain individuals, or because certain individuals want "to send a message" or demonstrate that they are "tough on crime".

This bill represents a case in point.

The proposed penalty for intentionally injuring or killing a police animal or canine search and rescue dog would constitute a **doubling** of the existing maximum term of imprisonment. (The proposed penalty for intentionally killing a police animal would constitute a **quadrupling** of the existing maximum term of imprisonment since that provision's enactment in 1993.)

Are the existing penalties for these crimes somehow inadequate?

Oftentimes, the problem, if there is one, is not in the penalties prescribed for an offense, but in the consistent enforcement of, and imposition of the penalties under, the existing statute.

What matters most is not the *severity* of the penalty, but the *certitude*.