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LEGISLATIVE SUMMARY



Bill C-35:

An Act to amend the Criminal Code (law enforcement animals, military animals and service animals)

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Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

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(Legislative Summary)

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LEGISLATIVE SUMMARY OF BILL C-35: AN ACT TO AMEND THE CRIMINAL CODE (LAW ENFORCEMENT ANIMALS, MILITARY ANIMALS AND SERVICE ANIMALS)

1 BACKGROUND

Bill C-35, An Act to amend the Criminal Code (law enforcement animals, military animals and service animals) (short title: Justice for Animals in Service Act [Quanto's Law]), was introduced by the Minister of Justice and passed first reading in the House of Commons on 12 May 2014. According to a statement from the Office of the Prime Minister, "The legislation honours Quanto, a police dog who was stabbed to death while helping to apprehend a fleeing suspect in Edmonton, Alberta, in October 2013. Quanto had four years of decorated service and had participated in more than 100 arrests."¹

Bill C-35 creates a new offence, criminalizing the act of killing or injuring a law enforcement animal, military animal or service animal.

Currently, an offence is committed under sections 444 and 445 of the *Criminal Code*² (Code) when someone wilfully kills, maims, wounds, poisons or injures cattle³ or when someone kills, maims, wounds, poisons or injures a domestic animal wilfully and without lawful excuse. Section 429(2) of the Code provides a defence, stating, "No person shall be convicted of an offence under sections 430 to 446 where he proves that he acted with legal justification or excuse and with colour of right."

There are also a number of provisions that address cruelty to animals, including section 445.1 of the Code, which establishes that it is an offence to cause unnecessary suffering to an animal.

2 DESCRIPTION AND ANALYSIS

2.1 KILLING OR INJURING CERTAIN ANIMALS (CLAUSE 3)

2.1.1 NEW OFFENCE

Clause 3 creates new section 445.01(1) of the Code, which establishes that it is an offence to wilfully and without lawful excuse kill, maim, wound, poison or injure:

- a law enforcement animal while it is aiding a law enforcement officer in carrying out that officer's duties;
- a military animal while it is aiding a member of the Canadian Forces in carrying out that member's duties; or
- a service animal while it is assisting a person with a disability.

In the context of law enforcement, the bill criminalizes the act of killing or injuring specifically a dog or horse that aids law enforcement officers. However, all animals that serve as military animals and service animals are covered (see definitions below).

2.1.1.1 DEFINITIONS OF “LAW ENFORCEMENT OFFICER” AND “SERVICE ANIMAL”

The bill defines the following terms in new section 445.01(4) of the Code for the purpose of the new offence outlined in new section 445.01(1):

- “Law enforcement officer” means:
 - a police officer or a police constable; or
 - any person referred to in the following paragraphs of the definition of “peace officer” in section 2 of the Code:
 - officers who are members of the Correctional Service of Canada (paragraph (b));
 - designated officers responsible for cross-border maritime law enforcement as defined in the *Integrated Cross-border Law Enforcement Operations Act*⁴ (paragraph (c. 1));
 - officers within the meaning of the *Customs Act*,⁵ the *Excise Act*⁶ or the *Excise Act, 2001*,⁷ or a person having the powers of such an officer (paragraph (d));
 - officers granted the authority and powers of a peace officer under section 138(1) of the *Immigration and Refugee Protection Act*⁸ (paragraph (d. 1));
 - persons designated as fishery guardians under the *Fisheries Act*⁹ or fishery officers under the *Fisheries Act* or the *Coastal Fisheries Protection Act*¹⁰ (paragraph (e)); or
 - officers and non-commissioned members of the Canadian Forces who are appointed as military police for the purposes of section 156 of the *National Defence Act*¹¹ or who are employed on duties that the Governor in Council has prescribed and that necessitate having the powers of peace officers (paragraph (g)).
- “Law enforcement animal” means a dog or horse that is trained to aid a law enforcement officer in carrying out that officer’s duties.
- “Military animal” means an animal that is trained to aid a member of the Canadian Forces in carrying out that member’s duties.
- “Service animal” means an animal that is required by a person with a disability for assistance and has been trained by a professional service animal institution to assist a person with a disability.

2.1.1.2 HYBRID OFFENCE

New section 445.01(2) of the Code provides that the offence of killing or injuring certain animals under new section 445.01(1) of the Code is a hybrid offence, which means that the prosecutor may choose to proceed by indictment or by summary conviction.

An indictable offence is punishable by imprisonment for a maximum of five years. A minimum punishment of imprisonment for a term of six months takes effect only if a *law enforcement* animal is killed. There is no minimum punishment of imprisonment if a military animal or a service animal is killed.

A summary conviction offence is punishable by a maximum fine of \$10,000 or by imprisonment for a maximum term of 18 months, or both. These punishments on summary conviction apply to offences committed against all types of service animals, not just law enforcement animals.

In addition, under new section 445.01(3), if a law enforcement animal is injured or killed, the sentence imposed for this offence is to be served consecutively to any other punishment imposed on the person for an offence arising from the same event or series of events.

2.2 CONSECUTIVE SENTENCES FOR OFFENCES AGAINST LAW ENFORCEMENT OFFICERS (CLAUSE 2)

Currently, the Code provides for various offences committed against a peace officer, such as assault or aggravated assault under sections 270 and 270.02, and assault with a deadly weapon or assault causing bodily harm under section 270.01(1).

Clause 2 of Bill C-35 creates new section 270.03 of the Code, which establishes that, if the abovementioned offences are committed against a law enforcement officer, the sentence imposed shall be served consecutively to any other punishment imposed on the person for an offence arising out of the same event or series of events.

2.3 OBJECTIVES OF DENUNCIATION AND DETERRENCE (CLAUSE 4)

Currently, section 718.02 of the Code¹² provides that, when a sentence is imposed for serious offences against a peace officer or intimidation of a justice system participant, the court shall give primary consideration to the objectives of denunciation and deterrence of the conduct that forms the basis of the offence in order to denounce and deter the illegal act and to prevent the offending behaviour from being repeated.¹³ Similarly, clause 4 of the bill creates new section 718.03 of the Code, which provides that these same considerations must be given when a law enforcement animal, military animal or service animal is injured or killed under new section 445.01.

NOTES

1. Prime Minister of Canada Stephen Harper, [*PM Harper Announces Greater Protection for Law Enforcement, Service and Military Animals*](#), 12 May 2014.
2. [*Criminal Code*](#), R.S.C. 1985, c. C-46 [Code].
3. The term “cattle” is defined in section 2 of the Code and includes horses, mules, asses, pigs, sheep and goats.
4. [*Integrated Cross-border Law Enforcement Operations Act*](#), S.C. 2012, c. 19, s. 368.

5. [Customs Act](#), R.S.C., 1985, c. 1 (2nd Supp.).
6. [Excise Act](#), R.S.C., 1985, c. E-14.
7. [Excise Act, 2001](#), S.C. 2002, c. 22.
8. [Immigration and Refugee Protection Act](#), S.C. 2001, c. 27.
9. [Fisheries Act](#), R.S.C., 1985, c. F-14.
10. [Coastal Fisheries Protection Act](#), R.S.C., 1985, c. C-33.
11. [National Defence Act](#), R.S.C., 1985, c. N-5.
12. Section 718.02 of the Code refers to sections 270, 270.01, 270.02, and 423.1(1)(b) of the Code. Sections 270 through 270.02 of the Code provide for a number of offences committed against peace officers, such as assault, aggravated assault, assault with a deadly weapon and assault causing bodily harm. Section 423.1(1)(b) establishes an offence for provoking a state of fear in a justice system participant in order to impede him or her in the performance of his or her duties.
13. [Paré c. R.](#), 2011 Q.C.C.A. 2047; and [R. v. B.W.P.](#); [R. v. B.V.N.](#), [2006] 1 S.C.R. 941.