

Dog Theft (Scotland) Bill

Policy Memorandum

Introduction

1. As required under Rule 9.3.3 of the Parliament’s Standing Orders, this Policy Memorandum is published to accompany the Dog Theft (Scotland) Bill introduced in the Scottish Parliament on 17 February 2025.
2. The following other accompanying documents are published separately:
 - Explanatory Notes (SP Bill 58–EN);
 - a Financial Memorandum (SP Bill 58–FM);
 - a Delegated Powers Memorandum (SP Bill 58–DPM);
 - statements on legislative competence made by the Presiding Officer and the Member in Charge of the Bill (SP Bill 58–LC).
3. This Policy Memorandum has been prepared by the Non-Government Bills Unit on behalf of Maurice Golden MSP (“the Member”) to set out the Member’s policy behind the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

Policy objectives of the Bill

Background

4. Currently, the theft of a dog is covered under the common law offence of theft in Scotland,¹ which is defined as where:

“...someone has taken and kept property without the consent of the rightful owner. In addition, it must be clear that the person who took the property did so with the intention of depriving the person who is the rightful owner.” (Source: Citizen’s Advice Scotland)²
5. The maximum penalty on conviction on indictment that a sheriff can impose for theft is an unlimited fine and/or imprisonment of up to five years subject to any wider power granted by statute for particular offences.³ In cases tried by a sheriff where a

¹ [Written question and answer: s5w-21655 | Scottish Parliament Website](#)

² [Stolen goods - Citizens Advice](#)

³ [Maximum and minimum sentences | Scottish Sentencing Council](#)

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sheriff holds that any competent sentence that could be imposed would be inadequate, the case can be remitted to the High Court for sentencing. The maximum penalty at the High Court is an unlimited fine and/or life imprisonment subject to any restrictions imposed by statute.⁴

6. The Bill creates a specific statutory offence of dog theft, punishable by up to five years in prison (up to 12 months on summary conviction; up to five years on indictment) and/or the maximum fine level available to the court that the person is tried in. The Bill makes other provision, including provision to enable victims of dog theft to make victim statements to the court, provision of an aggravation for the theft of an assistance dog, and provision in respect of reporting to the Parliament and a review of the Act.

Policy intention

7. A dog can mean a huge amount to a person. It can so often be a valued member of the family, and a constant companion for an individual. For many an assistance dog is invaluable support in everyday life. Losing a dog is a very traumatic experience for any person, and this trauma is exacerbated in situations where the dog has been stolen. The wellbeing of the dog impacts upon the wellbeing of the individual. When a dog is stolen the owner is left with the upset of being without the dog but also the uncertainty as to how the dog has been treated since it was stolen.

8. Dog theft, or dog abduction as it is often described, currently falls under the common law offence of theft. The Member believes there is a clear need for a specific, tailored offence of dog theft. At present he believes there is a low level of prosecutions under the common law for dog theft, and that the introduction of a specific crime with an associated proportionate punishment would be used more in practice than the current common law offence of theft. He believes the common law offence of theft places emphasis on the monetary value of an object, and that there is insufficient focus on the emotional importance to the owner of a sentient being. A dog is irreplaceable (and often considered a member of the family) whereas most inanimate objects can be easily replaced.

9. The Member believes greater recognition of the emotional impact on the owner is needed and that this should be an important consideration in sentencing. He believes the process followed in considering punishment for the individual convicted should take into account that emotional impact to a greater extent than at present. The Member has considered closely the policy behind the provisions in the UK Pet Abduction Act 2024, which received Royal Assent on 24 May 2024 and applies to England, Wales and Northern Ireland.⁵ Wherever relevant the Member has decided to emulate those policy provisions within his Bill. For example, the proposed maximum levels of fines and terms of imprisonment within his Bill are the same as the UK Act.

⁴ [Proposed Dog Abduction \(Scotland\) Bill - Final Proposal | Scottish Parliament](#)

⁵ [Pet Abduction Act 2024 - Parliamentary Bills - UK Parliament](#)

10. His policy has also been developed with a focus on the notable impact of dog theft on vulnerable people. As a result of this policy development process, he considers there are gaps in current legislation in relation to aggravated offences. For example, there is currently no specific aggravated offence for circumstances where someone steals an assistance dog from an individual. He also considers that dog theft should be one of the crimes where a victim has a right to make an impact statement.

11. Under the common law offence of theft, there is currently no requirement for incidences, charges, prosecutions and convictions to be recorded specifically as “dog theft”. On that basis he considers that there is no reliable data on the extent of dog theft.

12. Indeed, the Member believes that incidences of dog theft have increased notably in recent years. The context for this Bill is evidence of a rise in the levels of dog theft since the beginning of the Covid pandemic.⁶ In addition, as the rise in the demand for dogs and the associated rise in cost has continued, there is growing evidence of systematic dog theft through organised crime.⁷ The Member believes there is a growing need to tackle dog theft in step with the increasing levels of crime, and in such a way that reflects the emotional impact on the victim of losing a dog.

13. The current data does not reflect the extent of the problem and the Member considers accurate data is crucial in ensuring the extent of the level of dog theft is understood, including any particular patterns and trends. He also considers that it is essential that the response to crime is appropriately targeted. Detailed data would enable the enforcement authorities to identify where more focus and resource is required to tackle the crime, thus improving enforcement. Improved enforcement, a tailored criminal offence used more frequently than the current offence, accurate data reflecting punishments and an increased awareness that dog theft will be punished, including imprisonment would also generate a deterrent effect.

Emotional impact of dog theft

14. Dog theft has a significant emotional impact on people. A study, which was cited by Lauren K Harris in her paper, ‘Dog Theft: A Case for Tougher Sentencing Legislation’ (on behalf of the Dogs Trust), found that significant numbers of people experienced serious distress as a result.⁸ According to Harris, the findings of the study showed that approximately:

- 30 per cent reported feelings of “loss, grief or mourning”;
- 37 per cent suffered from “severe psychological or physiological effects” after their dog was stolen;
- 41 per cent reported negative effects on their family or work life;
- 48 per cent described themselves as “devastated”;

⁶ [Nearly 200 suspected dog thefts in Scotland in 2020, say police \(scotsman.com\)](https://www.scotsman.com/news/nearly-200-suspected-dog-thefts-in-scotland-in-2020-say-police-1.5144444)

⁷ [Pet Theft Taskforce \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714444/pet-theft-taskforce-report.pdf)

⁸ Cited in: Harris, LK., ‘Dog Theft: A Case for Tougher Sentencing Legislation’, MDPI, 22/05/18, Available at: [Dog Theft: A Case for Tougher Sentencing Legislation](https://www.mdpi.com/2077-0381/10/5/844)

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- 78 per cent reported negative impacts on their social life.⁹

15. Despite the potential for such serious emotional effects, the Dogs Trust has highlighted a risk of people facing challenges when showing emotion over animals.¹⁰ The Trust points to the concept of ‘disenfranchised grief’ – a term used to describe grief not fully acknowledged by society. The result of such grief is to cause those impacted not to be able to process their emotions properly because of fear of not being taken seriously or even ridiculed.

16. The Pet Theft Taskforce was established in May 2021 by three UK Government departments. It was established following the COVID-19 pandemic and in response to concerns that there may have been an increase in pet theft due to increased prices for pets during that period. The Taskforce highlighted the impact of the crime on both the victim as well as on the welfare of the animal:

“The evidence presented to the taskforce has shown the serious impact of this crime on the victims. As well as causing trauma to the pet’s owners, many cases of pet theft affect the animal’s welfare”.¹¹

17. The Member considers that it is important to note that emotional distress caused by dog theft is likely to be borne harder by the most vulnerable, including those who have limited support such as through family or friends.¹² It is the Member’s position that the law ought to be reflective of these emotional effects and the distress caused to the victim. In particular, the Member is unconvinced that the law as it currently stands fully enables the emotional impact of dog theft on the victim to be taken into account in sentencing.

Incidences of dog theft and prosecutions

18. Estimates of the number of dog thefts during the pandemic vary from 88 cases across Scotland in 2020-21 (according to Police Scotland data)¹³ which represented a 42% year-on-year increase¹⁴ to an estimate by the Kennel Club of 193 in 2020.¹⁵

19. The charity, DogLost, which monitors reports of missing dogs, estimated a 170% increase in cases of dog theft UK-wide during the pandemic,¹⁶ whilst the Home Office

⁹ Cited in: Harris, LK., ‘Dog Theft: A Case for Tougher Sentencing Legislation’, MDPI, 22/05/18, Available at: [Dog Theft: A Case for Tougher Sentencing Legislation](#)

¹⁰ Dogs Trust Briefing on Dog Theft. Published as Annex 1 to the Member’s consultation document. Available at: [Proposed Dog Abduction \(Scotland\) Bill - Final Proposal | Scottish Parliament](#)

¹¹ [Pet Theft Taskforce \(publishing.service.gov.uk\)](#)

¹² [Proposed Dog Abduction \(Scotland\) Bill - Final Proposal | Scottish Parliament](#)

¹³ This figure included cases where the issue related to a dispute over ownership or a domestic incidents. With these excluded, the figure was 60. For further information see: [Recorded Theft of Dogs in Scotland April 2019 – March 2021 | Police Scotland](#)

¹⁴APU Dalmarnock, ‘Recorded Theft of Dogs in Scotland April 2019 – March 2021’, Police Scotland, June 2021, Available at: [Recorded Theft of Dogs in Scotland April 2019 – March 2021 | Police Scotland](#)

¹⁵ [Nearly 200 suspected dog thefts in Scotland in 2020, say police \(scotsman.com\)](#)

¹⁶ [Take the lead on dog theft | Blue Cross](#)

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estimated that there had been around 2,000 dog theft crimes reported to the police in 2021 in England and Wales.¹⁷

20. The House of Commons Library briefing paper accompanying the Pet Abduction Bill highlighted that, in February 2021, researchers analysing data compiled by the campaign group, Pet Theft Reform, found that 1,504 offences of ‘dog theft’ were recorded by 33 police forces in 2020, which was 3.5% higher than the 1,452 offences recorded by the same forces in 2019. According to the briefing paper, the data suggested that the total number of recorded dog theft offences was higher in 2017 (1,909) and in 2015 (1,559). The briefing paper noted that the data should be treated with caution due to possible changes in police recording practices.¹⁸

21. The Pet Theft Taskforce published a policy paper in September 2021, which stated that a number of sources, including animal welfare charities and experts in the field, had taken the view that an increase in the price of dogs during lockdown periods had indeed resulted in an increase in the incidence of dog theft.¹⁹

22. Dogs are, by far, the most popular animal to steal. According to the Metropolitan Police, 70% of crimes in which animals are stolen involve dogs.²⁰

23. Whilst these figures do not cover Scotland, the Member has not heard evidence to suggest that the incidence of dog theft in Scotland is different to the rest of the UK.

24. In relation to prosecutions, both BlueCross (an organisation that exists to protect and speak out for vulnerable pets) and the Kennel Club have highlighted a lack of success in apprehending suspects. According to Kennel Club research, 98 per cent of dog abductions resulted in no one being charged. In 54 per cent of the cases recorded during 2020, no suspect was identified.²¹ Figures published in 2021 by the Kennel Club highlighted charge rates of less than 5 per cent²² and that only one per cent of dog abduction cases in the UK in 2019-20 resulted in prosecution.²³

Increasing prevalence of organised crime

25. A further issue identified by the Pet Theft Taskforce was evidence of a link between pet theft and organised crime. The Taskforce stated that “intelligence suggests that a significant proportion of dog theft is carried out by Organised Crime Groups”.²⁴ The Taskforce policy paper stated that:

¹⁷ [Pet Abduction Bill 2023-24 Research Briefing - House of Commons Library | UK Parliament](#)

¹⁸ [Pet Abduction Bill 2023-24 Research Briefing - House of Commons Library | UK Parliament](#)

¹⁹ [Pet Theft Taskforce \(publishing.service.gov.uk\)](#)

²⁰ [Pet Theft Taskforce \(publishing.service.gov.uk\)](#), p6

²¹ [New figures show scale of dog theft | Kennel Club \(thekennelclub.org.uk\)](#)

²² Selby-Fell, H. and Allen, D. ‘Dog Theft: What can we infer from the evidence so far?’, Pet Theft Reform, 24/02/21, Available at: [Dog Theft: What can we infer from the evidence so far? \(pettheftreform.com\)](#)

²³ [Take the lead on dog theft | Blue Cross](#)

²⁴ [Pet Theft Taskforce \(publishing.service.gov.uk\)](#)

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“There has also been some evidence that as the value of stolen dogs has increased, in some areas this has attracted the interest of Organised Crime Groups (OCGs), who have adapted their criminality in response, taking advantage of the marketplace”.²⁵

Existing law in Scotland: common law of theft

26. In Scotland, the theft of a dog comes under the common law offence of theft,²⁶ which is defined in common law as where:

“...someone has taken and kept property without the consent of the rightful owner. In addition, it must be clear that the person who took the property did so with the intention of depriving the person who is the rightful owner.” (Source: Citizen’s Advice Scotland)²⁷

27. The maximum penalty on conviction on indictment that a sheriff can impose for theft is an unlimited fine and/or imprisonment of up to five years subject to any wider power granted by statute for particular offences.²⁸ In cases tried by a sheriff where a sheriff holds that any competent sentence that could be imposed would be inadequate, the case can be remitted to the High Court for sentencing. The maximum penalty at the High Court is an unlimited fine and/or life imprisonment subject to any restrictions imposed by statute.²⁹

28. A few responses to the Member’s consultation on his proposal for a Bill questioned whether a stand-alone offence of dog theft was necessary, given that dog theft is already illegal under the common law offence. For example, university law lecturer, Craig Anderson, argued that, rather than creating a new offence, it would be more effective to provide additional resources to allow the existing law to be properly enforced.³⁰ Furthermore, the Law Society of Scotland stated that: “In our view the consultation does not establish that there is a gap in the current law of theft which would be filled by a new statutory offence”.³¹

29. The Member wishes to highlight that the Crown Office and Procurator Fiscal Service will still be able to bring prosecutions under the common law offence where it considers this to be most appropriate. However, the Member wishes to provide an option to prosecute under a specific statutory offence, and notes that there is precedent for the Parliament legislating in areas where an offence already exists.³² He considers that it is likely that the specific statutory offence will be used more in practice. This is the case with, for example, the offence of threatening or abusive behaviour under section 38 of the Criminal Justice and Licensing (Scotland) Act 2010, which co-exists with the

²⁵ [Pet Theft Taskforce \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

²⁶ [Written question and answer: s5w-21655 | Scottish Parliament](#)

²⁷ [Stolen goods - Citizens Advice](#)

²⁸ [Maximum and minimum sentences | Scottish Sentencing Council](#)

²⁹ [Proposed Dog Abduction \(Scotland\) Bill - Final Proposal | Scottish Parliament](#)

³⁰ [Proposed Dog Abduction \(Scotland\) Bill - Summary of consultation responses | Scottish Parliament](#)

³¹ [Proposed Dog Abduction \(Scotland\) Bill - Summary of consultation responses | Scottish Parliament](#)

³² See, for example, the Protection of Workers (Scotland) Act 2021 and section 38(1) of the Criminal Justice and Licensing (Scotland) Act 2010

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common law offence of breach of the peace (see case study in next section),³³ Nevertheless, the ability to prosecute under common law will remain and it will still be possible to bring charges under the common law offence if the Crown Office and Procurator Fiscal Service decides that this is the most appropriate course of action, for example in cases where dogs of notable financial value have been stolen or where other offences such as robbery are involved. Ultimately it would be for the Crown Office and Procurator Fiscal Service to decide. The Member envisages that prosecutorial guidance could set this out in more detail.³⁴

Breach of the peace – case study

30. There is precedent for common law offences co-existing with more tailored statutory offences in recent times. For example, the common law offence of breach of the peace co-exists in Scots Law alongside the threatening or abusive behaviour offence created under section 38 of the Criminal Justice and Licensing (Scotland) Act 2010.³⁵ The section 38 offence came into force in October 2010 and is commonly referred to as a “statutory breach of the peace”. It is defined as acting in a threatening or abusive manner, which is likely to cause a reasonable person to suffer fear or alarm, whether or not it is intentional or reckless. However, it is a defence for an accused person to show that the behaviour was reasonable in all the circumstances.

31. With common law breach of the peace, the definition is contained in case law rather than statute. According to Scottish Crime Recording Standards, a breach of the peace is “constituted by one or more persons conducting himself or themselves in a riotous or disorderly manner, where such conduct is severe enough to cause significant alarm to ordinary people and threaten serious disturbance to the community”.³⁶

32. In terms of sentencing, as a common law offence, the maximum sentence which can be imposed for a breach of the peace is determined only by the general sentencing powers of the court which hears the case, whilst the section 38 offence can result up to 12 months imprisonment on summary complaint and five years’ imprisonment on indictment. There is a clear parallel here in sentencing with the approach the Member is taking introducing a more modern, tailored, lower-level punishment than available under the common law offence of theft.

33. The Member also considers that there is a read-across between the offence created in this Bill and its relationship with the common law of theft, and is interested to note that criminal defence solicitors have commented that the common law offence of breach of the peace is now used less frequently in prosecutions, with the section 38 offence being the more frequent basis for prosecutions.³⁷

³³ [Breach of the Peace \(s.38/s.39\) - Graham Walker Solicitors](#)

³⁴ [Proposed Dog Abduction \(Scotland\) Bill - Final Proposal | Scottish Parliament](#)

³⁵ [Criminal Justice and Licensing \(Scotland\) Act 2010 \(legislation.gov.uk\)](#)

³⁶ [Group 6 – Anti-social Offences - Scottish Crime Recording Standard: Crime Recording and Counting Rules - gov.scot](#)

³⁷ See for example: [Breach of the Peace \(s.38/s.39\) - Graham Walker Solicitors](#) / [Breach of the Peace Lawyers Edinburgh, Scotland | McSporrans](#)

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Changes in the law elsewhere in the UK

34. The UK Government included provisions in the Animal Welfare (Kept Animals) Bill introduced in May 2022 to create an offence of taking a pet without lawful authority.³⁸ However, the Bill was withdrawn by the Government on 8 June 2023, before it completed all stages.³⁹ The UK Government committed at the time to bring forward legislation on pet theft before the end of that Parliament.⁴⁰

35. On 6 December 2023, then MP Anna Firth introduced the Pet Abduction Bill to the House of Commons. Given its previous commitment to bring forward legislation on pet theft before the end of that Parliament, the UK Government supported the Bill.⁴¹ The Bill received cross-party support, passing Third Reading in the House of Commons on 19 April 2024 without division⁴² and passing Third Reading in the House of Lords on Friday 24 May 2024, again without division.⁴³ The UK Pet Abduction Act 2024⁴⁴ therefore received Royal Assent on 24 May 2024. This Act creates two new offences of dog abduction and cat abduction for England and Northern Ireland.⁴⁵ The Act also provides that appropriate national authorities may, by regulations, extend the offence to other species of animal.⁴⁶

36. The Member's policy mirrors the detail of the provisions of the Pet Abduction Act 2024 closely in relation to dogs. This Bill would therefore seek to bring Scotland into line with other parts of the UK in legislating to address this increasing problem. The fact that the Pet Abduction Act 2024 received significant cross-party support in the last Parliament, and was not divided on at Third Reading in either the House of Commons or Lords, gives the Member cause to hope that the Dog Theft (Scotland) Bill will also receive cross-party support in the Scottish Parliament. This Bill contains similar provisions to that Act in respect of dogs. Furthermore, this Bill provides for victims of dog theft to be able to make victim statements to the court, for the theft of an assistance dog to be an aggravated offence, and for data collection, annual reporting and a review of the legislation. Those provisions go further than the Pet Abduction Act 2024.

³⁸ [Animal Welfare \(Kept Animals\) Bill - Parliamentary Bills | UK Parliament](#)

³⁹ The Government withdrew the Bill as time had run out due to it being a "carry-over" bill from the previous session of Parliament, and two years having elapsed since First reading on 8 June 2021. Further information is available at: [Animal Welfare \(Kept Animals\) Bill - Parliamentary Bills | UK Parliament](#)

⁴⁰ [Pet Abduction Bill 2023-24 Research Briefing - House of Commons Library | UK Parliament](#)

⁴¹ [Pet Abduction Bill 2023-24 Research Briefing - House of Commons Library | UK Parliament](#)

⁴² [Pet Abduction Bill - Hansard | UK Parliament](#)

⁴³ [Committee of the Whole House \(day 1\) - House of Lords Business | UK Parliament](#)

⁴⁴ [Pet Abduction Act 2024 \(legislation.gov.uk\)](#)

⁴⁵ [Pet Abduction Bill 2023-24 Research Briefing - House of Commons Library | UK Parliament](#)

⁴⁶ [Pet Abduction Act 2024 \(legislation.gov.uk\)](#)

Further legislative changes in the Bill

Victim statements

37. Victims of certain serious crimes are eligible to make a victim statement to the court. This is a written statement that gives the victim the chance to tell the court – in their own words – how a crime has affected them:

- physically;
- emotionally;
- financially.⁴⁷

38. The accused is allowed to see the victim statement, but normally this will only happen after they have pleaded or been found guilty. The accused will be allowed to read all or parts of the victim statement at an earlier stage if it has been passed on to the defence to help ensure a fair trial.⁴⁸

39. The list of offences for which a victim statement may be made is set out in the schedule to the Victim Statements (Prescribed Offences) (No. 2) (Scotland) Order 2009.⁴⁹ This Order lists the offences which are “prescribed” for the purposes of section 14(2) of the Criminal Justice (Scotland) Act 2003. This list is split into non-sexual crimes of violence (such as murder); sexual crimes of violence and indecent crimes (such as rape and indecent assault); housebreaking; racially motivated crimes; road traffic offences; other crimes (currently fireraising); and inchoate offences (conspiring or aiding and abetting the offences listed in the schedule).⁵⁰

40. Given the seriousness of dog theft, and the emotional impact it has on the victim, the Member believes that legislating in his Bill to allow victims to make such a written statement to the court about the impact of having their dog stolen will provide valuable context for the court prior to the dispensation of an appropriate punishment. The Bill does this by amending section 14 of the Criminal Justice (Scotland) Act 2003, to provide that the offence of dog theft is to be treated as a prescribed offence, and to require any court where proceedings under the Dog Theft (Scotland) Act 2025 are taking place to be treated as a prescribed court. This means that victims of dog theft will be able to make a victim statement about the effect of the crime upon them to the court.

Existing aggravating factors and their application to the new offence of dog theft

41. In sentencing an offender, sheriffs and judges must consider and weigh up a range of factors. Factors that are likely to make a sentence more severe are called aggravating factors, and factors that are likely to make a sentence less severe are called mitigating factors.⁵¹ An aggravating factor in a charge makes the charge more

⁴⁷ [Make a victim statement - mygov.scot](https://mygov.scot)

⁴⁸ [Make a victim statement - mygov.scot](https://mygov.scot)

⁴⁹ [The Victim Statements \(Prescribed Offences\) \(No. 2\) \(Scotland\) Order 2009 \(legislation.gov.uk\)](https://legislation.gov.uk)

⁵⁰ [The Victim Statements \(Prescribed Offences\) \(No. 2\) \(Scotland\) Order 2009 \(legislation.gov.uk\)](https://legislation.gov.uk)

⁵¹ [Scottish Sentencing Council Sentencing Factors | Scottish Sentencing Council](https://www.scottishsentencingcouncil.gov.uk)

serious, and therefore is likely to make the sentencing more severe.⁵² Some of the main existing aggravating factors are: where an offender was on bail when the offence was committed; where an offender showed ill-will to a victim based on a characteristic such as race, religion or sexual orientation; where the offence is motivated by, or demonstrating, hostility based on the victim's disability or where a vulnerable victim is deliberately targeted due that vulnerability; or where the offence involves domestic abuse, serious organised crime or terrorism.⁵³ A full list of aggravating factors is available on the Scottish Sentencing Council's website.⁵⁴

42. Existing aggravating factors can also apply to the theft of a dog under this Bill. For example, stealing a dog as part of organised crime would be an aggravating factor that could be applied. If numerous dogs are stolen at the same time, there could well be some connection to organised crime. Previous convictions and repeat offences⁵⁵ are also common aggravating factors that could be applied in cases of dog theft. Furthermore, existing aggravating factors that would apply would be hostility towards a victim's disability, as well as the deliberate targeting of a victim who is vulnerable or perceived to be vulnerable.⁵⁶ The Member considers that there is a clear argument that this particular aggravating factor would be of relevance to the operation of an offence where there is an emphasis on the welfare of the owner. For example, the impact of stealing dogs from elderly people who live alone where a dog is a valuable companion may have a greater welfare impact than on other groups of people in society.

43. The Member considers that the underlying principle in the application of numerous existing aggravating factors to the new offence of dog theft is the need for increased punishment for anyone who deliberately targets a vulnerable person by stealing their dog, or who undertakes dog theft on a large scale, causing trauma to multiple dogs and people.

44. Having applied this principle and considered all existing aggravating factors, the Member has identified a gap in these aggravating factors, in respect of the theft of an assistance dog. The type of assistance that an assistance dog provides is guiding a blind person, assisting a deaf person with routine tasks or assisting people who are otherwise disabled with such tasks.⁵⁷ Given that an individual relies on an assistance dog to carry out day to day functions and to provide them with independence as well as providing mental health benefits, the Member considers that deliberately taking or detaining a dog that is known to be an assistance dog compounds the severity of the offence committed under the Bill. The Member considers that this aggravating factor should apply regardless of whether the dog is actively providing someone with assistance or whether it is under the lawful control of any person who is entitled to have lawful control of it, such as a dog walker, a dog sitter or a vet.

⁵² [Scottish Sentencing Council Sentencing Factors | Scottish Sentencing Council](#)

⁵³ [Scottish Sentencing Council Sentencing Factors | Scottish Sentencing Council](#)

⁵⁴ [Aggravating and mitigating factors – Sentencing | Scottish Sentencing Council](#)

⁵⁵ [Aggravating and mitigating factors – Sentencing | Scottish Sentencing Council](#)

⁵⁶ [Aggravating and mitigating factors – Sentencing | Scottish Sentencing Council](#)

⁵⁷ As set out in section 173 of the 2010 Act – Available at: [Equality Act 2010 \(legislation.gov.uk\)](#)

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45. Therefore, the Bill provides for the theft of an assistance dog to be a new aggravated offence.

Provisions of the Bill

Detail of the Bill

Creation of the offence of dog theft

46. Section 1 of the Bill creates a specific offence of dog theft, punishable by up to five years in prison (up to 12 months on summary conviction; up to five years on indictment) and/or the maximum fine level available to the court that the person is tried in. The creation of this offence gives effect to the Member's policy intention to make dog theft a specific offence. The maximum level of penalties are the maximum penalties in the relevant court where the offence may be tried.⁵⁸

Situations where an offence has not been committed/defences

47. The Member considers that there are some circumstances where a person may have legitimately taken a dog but where they may have been reported for having committed the offence of dog theft. Sections 1(2) to (5) of the Bill therefore make provision for where the crime of dog theft is not committed, and for specific defences. For example, subsection (2) provides that the offence will not apply in relation to persons who previously lived together with the dog in the same household, where certain conditions are met. This would cover circumstances where, following a domestic dispute, one partner kept the dog.

48. In respect of specific defences, subsection (3) provides that it is a defence for a person charged with dog theft to show that they had lawful authority or a reasonable excuse. This would cover a situation where a person had the consent of the owner to take the dog, or where they believed they had the owner's consent. Subsection (4) provides for a defence where a person takes a dog which they believe to be a stray and takes reasonable steps to return it to the owner or a local authority officer as required under section 150(1) of the Environmental Protection Act 1990.

49. These defences mirror defences set out in the Pet Abduction Act 2024⁵⁹ and the Animal Welfare (Kept Animals) Bill (a Bill which was introduced to the House of Commons on 11 May 2022 but which was withdrawn on 8 June 2023⁶⁰). More generally, the policy intentions behind those pieces of legislation are similar to the policy intentions of the Member in introducing this Bill in the Scottish Parliament.

⁵⁸ Further information on the level of penalty in each court is available at: [Maximum and minimum sentences | Scottish Sentencing Council](#)

⁵⁹ [Pet Abduction Act 2024 \(legislation.gov.uk\)](#)

⁶⁰ [Animal Welfare \(Kept Animals\) Bill - Parliamentary Bills - UK Parliament](#)

Aggravation for assistance dogs

50. Section 2 of the Bill gives effect to the policy intention to create an aggravation for theft of an assistance dog (irrespective of whether or not the dog is working). For the reasons outlined in paragraph 44 of this Memorandum, the Member considers that deliberately taking or detaining a dog that is known to be an assistance dog, compounds the severity of the offence committed under the Bill, and that this aggravating factor applies regardless of whether the dog is actively providing someone with assistance or whether it is under the lawful control of any person who is entitled to have lawful control of it.

51. This section therefore provides that the offence of dog theft is aggravated if the dog which is taken or kept is an assistance dog. This means that, where the dog is an assistance dog, the court must, on conviction, state that the offence is aggravated, and record that aggravation. The aggravation must be taken into account in sentencing. Finally, the court must state the extent of the difference in sentence and the reasons for it, or, where the sentence is the same as it would have been without the aggravation, the reasons why there is no difference. These provisions mirror provisions in section 44 of the Fireworks and Pyrotechnic Articles (Scotland) Act 2022 (which provides for an aggravation when an offence is committed against an emergency worker and a firework or pyrotechnic article is used in committing that offence)⁶¹ – the reason being that an assistance dog, like an emergency worker, is doing a specific job to help people.

52. As rehearsed elsewhere in this Memorandum, the Member considers dog theft to be a heinous crime, and one which causes considerable trauma to owners. It is the Member's view that this crime becomes yet more egregious where the dog is an assistance dog, providing not only companionship, but also vital day-to-day support to its owner, without which the owner would struggle to cope. The Member believes that the law needs to reflect this, and therefore the Bill provides for an aggravation for theft of an assistance dog, meaning that theft of an assistance dog is taken into account as an aggravating factor in sentencing.

53. The Bill also defines the term "assistance dog", applying the meaning given to it under section 173(1) of the Equality Act 2010. It also provides a regulation making power for the Scottish Ministers to add to the categories of "assistance dog", but only for the purposes of section 2 of this Bill which deals with the aggravating factor. This is to allow the flexibility to add to the categories of an assistance dogs in the future, theft of which may benefit from being treated as an aggravating factor.⁶²

Victim statements

54. As highlighted in his consultation document, the Member is unconvinced that the impact of dog theft on the victim (and indeed on the dog⁶³) is taken into account in

⁶¹ [Fireworks and Pyrotechnic Articles \(Scotland\) Act 2022 \(legislation.gov.uk\)](https://legislation.gov.uk)

⁶² Currently the UK Government has the power to prescribe additional categories of assistance dog under section 173(2) of the Equality Act 2010. The power provided in section 2(2)(b) of the Bill would be for the purposes of this section alone and would not affect the meaning of the terms in the Equality Act 2010.

⁶³ [Pet Theft Taskforce \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

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sentencing. This was highlighted by the Pet Theft Taskforce in its report, noting that there was “growing public feeling” that sentencing does “not sufficiently recognise an animal as something more than mere property”.⁶⁴

55. Therefore, section 3 of the Bill amends section 14 of the Criminal Justice (Scotland) Act 2003 (“the 2003 Act”) to enable victims of dog theft to make a statement to the court (“victim statements”). Victim statements are provided for by section 14 of the Criminal Justice (Scotland) Act 2003 (“the 2003 Act”).⁶⁵ A victim statement is a written statement that gives the victim the chance to tell the court how the crime has affected them physically, emotionally and financially.⁶⁶ There are a number of existing situations where a victim may make a statement to the court. Section 3 of the Bill makes dog theft a “prescribed offence” for the purposes of section 14 of the 2003 Act. This means that victims of dog theft would be able to make a victim statement. The right to make a victim statement will apply in solemn and summary proceedings.

56. The majority of existing “prescribed offences” under section 14 of the 2003 Act are offences against the person (such as assault, robbery and sexual offences, as well as murder). There are, however, crimes that are not against the person on the list, namely theft by housebreaking and fireraising.⁶⁷

57. It is the Member’s contention that the addition of dog theft to the list of prescribed offences is entirely in keeping with the severity of offences currently in this list, reflecting as it does the emotional impact on a person of having a pet dog stolen.

Data collection and reporting requirements

58. Section 4 of the Bill places a requirement on the Scottish Ministers to publish and lay before the Parliament a report on the operation of the Act. The Bill also sets out what the report must include. Subsection (3) places a duty on the Scottish Courts and Tribunals Service, the Crown Office and Procurator Fiscal Service on behalf of the Lord Advocate and the chief constable of Police Scotland to provide the information required for the report to the Scottish Ministers in the form, manner and timescales specified by the Scottish Ministers. In practice this means that those bodies will be required to record, and pass on to the Scottish Ministers, data on the following:

- The number of reports received by Police Scotland of a dog being taken or kept;
- The number of reports received where no offence was committed or where a defence under the Act applied;
- The number of persons charged under the Act;

⁶⁴ [Pet Theft Taskforce](#)

⁶⁵ [Criminal Justice \(Scotland\) Act 2003 \(legislation.gov.uk\)](#)

⁶⁶ [Make a victim statement - mygov.scot](#)

⁶⁷ The list of “prescribed offences” is set out in the schedule to The Victim Statements (Prescribed Offences) (No. 2) (Scotland) Order 2009. Available at: [The Victim Statements \(Prescribed Offences\) \(No. 2\) \(Scotland\) Order 2009 \(legislation.gov.uk\)](#)

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- The number of prosecutions, broken down into those initiated under summary and solemn procedure;
- The number of convictions, broken down into those obtained under summary and solemn procedure;
- The nature of sentence imposed, including whether an aggravation applied;
- The length of sentence or magnitude of fine imposed;
- The number of charges, prosecutions and convictions under common law theft where the property taken or kept was a dog.

59. It is the Member's view that requiring this data to be collated and reported on will help to inform both the Scottish Ministers and the Parliament, as well as decision makers within the Scottish Courts and Tribunals Service, the Crown Office and Procurator Fiscal Service and Police Scotland, to establish the existing extent of dog theft (including data on types of dog theft as well as any geographical trends) as well as future trends. This will help those bodies in allocating and deploying resources effectively to prosecute dog theft, and in finding ways to proactively and preventatively address the issue. It will also inform a review of the operation of the Act.

Review of the Act

60. The Member is also aware that how the Bill will operate in practice when enacted will only become apparent at the time. Therefore, the Bill includes provision for a review of the Act after five years to allow for post-legislative scrutiny of the operation of the Act. The Bill requires the Scottish Ministers, in carrying out this review, to consider whether there should be a statutory offence or offences of the theft of any other type of animal normally kept as a pet.

61. Section 5 of the Bill provides for such a review to take place five years after section 1 comes into force. It provides for the Scottish Ministers to report on the review and to publish and lay it before the Parliament. Under section 5 the review must set out the extent to which the Act has been successful in reducing the occurrence of dog theft; the number of cases prosecuted under the Act; the number of cases of dog theft prosecuted under the common law offence of dog theft; any concerns raised about the operation of the Act and how the Scottish Ministers have responded to concerns.

62. The Member considers that, providing for such a review of the Act will enable the Scottish Ministers and the Parliament, and other key decision makers, to reflect, with five years of data to hand, on how this Act has worked in practice, and whether it has acted as a deterrence or not. It will also inform decision making on whether the Act needs to be tightened or left as is.

Alternative approaches

63. The Member recognises that, in light of the provisions of the Pet Abduction Act 2024, there may also be a case for making cat theft a specific offence in Scots Law, and that the argument can be made for other animals. The Member hopes that introducing specific legislation to make it an offence to steal a dog would provide a helpful model for future such proposals. In bringing forward this bill, the Member has followed the traditional Member's bill process of seeking to change the law in relation to one targeted policy. However, it is very much the Member's hope that his bill will succeed and that this will be a catalyst for change in that it will lead to wider legislative change including a tailored offence relating to cats and other animals. Indeed, this bill includes a requirement for the Scottish Government to review the implementation of this Bill following its enactment including requiring active consideration as to whether further legislation should be introduced in relation to the theft of other animals normally kept as pets.

64. A further alternative approach would be not to legislate, but to make representations to the Crown Office and Procurator Fiscal Service and Police Scotland to seek to address the low number of prosecutions for theft of a dog under the common law offence, and to raise awareness of the offence. Stakeholder organisations, such as Blue Cross, the Dogs Trust and the Kennel Club have already sought to raise awareness, and the Member has engaged with Police Scotland and the Crown Office and Procurator Fiscal Service. However, the Member is not persuaded that use of the common law offence of theft can address the problem of dog theft. Even where the common law offence is prosecuted effectively, convictions secured and good data held on theft of dogs, the theft of dogs would still be prosecuted in the same way as a household item. In short, it is the Member's view that the emotional connection between dogs and their owners warrants a bespoke offence. Furthermore, it is the Member's view that the creation of such an offence, alongside other provisions in the Bill, such as the annual reporting requirements, victim statement provisions and aggravation for theft of an assistance dog, make clear in law that stealing a dog is different to stealing a replaceable household item. Finally, the Member considers that the UK Parliament passing the Pet Abduction Act 2024 has forged a legislative path for the creation of an offence of dog theft in Scotland.

Consultation

Draft Proposal

65. On 21 October 2022, the Member lodged a draft proposal for a Member's Bill to: "create a new statutory offence to tackle the problem of dog theft and other situations where a dog is taken or kept without lawful authority, that would take account of considerations such as the feelings of dogs and dog welfare; and improve data recording to better inform detection and prevention efforts".⁶⁸

⁶⁸ [Proposed Dog Abduction \(Scotland\) Bill | Scottish Parliament](#)

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66. A consultation document accompanied the draft proposal.⁶⁹ The consultation ran from 22 October 2022 to 16 January 2023. During the consultation the Member met with a range of stakeholders to consult them on the proposal. These stakeholders included Police Scotland, the Crown Office and Procurator Fiscal Service, the Faculty of Advocates and the Law Society of Scotland, as well as groups such as OneKind, the Battersea Dogs and Cat Home, BlueCross and the Kennel Club. A full list of stakeholders with whom the Member met is available in the summary of consultation responses to the Member's consultation on the draft proposal.⁷⁰

67. In total, 237 responses were received to the consultation. The responses can be categorised as follows:

- 202 (85%) were members of the public,
- 10 (4%) were professionals with relevant experience,
- 7 (3%) were politicians, and
- 3 (1%) were academics.
- 12 (5%) were from third sector bodies,
- 2 (1%) were representative organisations, and
- 1 was a public body.⁷¹

68. A clear majority of responses were supportive of the draft proposal (93% fully supportive; 4% partially supportive). Answers to almost all of the multi-option questions posed in the consultation reflected that those responding were supportive of each aspect of the proposal (for example the maximum level of fines and length of imprisonment). Among organisations there was also a clear majority in support of the draft proposal.⁷²

69. Key themes that emerged in the responses included:

- Many respondents thought that creation of a specific offence would help recognise the sentience of dogs and the strength of the human/dog bond. In their view it would also place a focus on animal welfare;
- The view that all dogs should be treated equally regardless of their financial value. The majority of respondents were of the view that the proposed maximum sentence would have a deterrent effect and reduce the incidence of dog theft;
- That there is currently a lack of data available on dog thefts and the creation of a standalone offence would result in improved data collection.⁷³

⁶⁹ [Proposed Dog Abduction \(Scotland\) Bill - Final Proposal | Scottish Parliament](#)

⁷⁰ [Proposed Dog Abduction \(Scotland\) Bill - Summary of consultation responses | Scottish Parliament](#)

⁷¹ [Proposed Dog Abduction \(Scotland\) Bill - Summary of consultation responses | Scottish Parliament](#)

⁷² [Proposed Dog Abduction \(Scotland\) Bill - Summary of consultation responses | Scottish Parliament](#)

⁷³ [Proposed Dog Abduction \(Scotland\) Bill - Summary of consultation responses | Scottish Parliament](#)

70. Among those less supportive of the proposal, key themes were:

- a lack of current data to point to the need for a new offence;
- a lack of a need for a new offence given the existing offence of theft;
- that associated sentences with the existing offence can be higher than those under the proposed new offence; and
- that courts currently take account of animal welfare, victim impact and any other relevant considerations when dealing with dog theft cases including in sentencing.

71. Some respondents also noted that the proposal had a narrow scope, in being focussed on dog abduction/theft only, with a number suggesting that further consideration be given to widen it to include cats, and other family pets.

72. A summary of responses to the consultation was published by the Member on 13 September 2023, and is available at: [Proposed Dog Abduction \(Scotland\) Bill - Summary of consultation responses | Scottish Parliament](#).⁷⁴

Effects on equal opportunities, human rights, rights of the child, island communities, local government and sustainable development

Equal opportunities

73. The Member has carried out an Equalities Impact Assessment, which will be sent to the lead committee during Stage 1. The Member does not consider that the Bill will have any adverse impact on equal opportunities. The introduction of an aggravation for theft of an assistance dog will offer additional protection to certain individuals with the protected characteristic of disability. It will provide for an increased punishment where the offence concerns an assistance dog and therefore the intention is that this will serve as an additional safeguard by acting as a deterrent. In considering existing aggravations and how they might apply to the offence of dog theft, the Member realised that there was a potential gap in respect of the theft of an assistance dog. Given the vital role that assistance dogs provide to people with a range of disabilities, and the significant emotional and logistical toll that their theft would have on a victim of the crime, it is the Member's view that there should be an aggravation for the theft of an assistance dog.

74. Furthermore, the Member considers that other provisions in the Bill, such as the provision for victims to be able to make victim statements to the court, will have a positive impact on equal opportunities. The provisions in respect of victim statements will allow victims to state in writing how the offence has affected them physically, emotionally and financially. This may include reference to how the crime has affected them due to a particular protected characteristic. For example, an elderly or disabled

⁷⁴ [Proposed Dog Abduction \(Scotland\) Bill - Summary of consultation responses | Scottish Parliament](#)

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person who has been the victim of dog theft may feel less safe leaving their house after being the victim of dog theft. Being able to make a victim statement provides them with the opportunity to tell this to the court.

Human rights

75. The Member does not consider that the Bill will have any specific impact on convention rights. In establishing increased deterrents for dog theft, it is the Member's view that the Bill may have a positive impact on the right to respect for private and family life (Article 8), given the positive impacts that dog ownership has on individuals and families. As mentioned in the previous section (Equal Opportunities), the provision in section 3 of the Bill for victims of dog theft to be able to make victim statements to the court will allow a person who has been the victim of dog theft to express in writing to the court the impact of that theft on them physically, emotionally and financially. This may include the wider impact of the theft on their family and their home, given that the dog was seen as part of the family. More generally, it is the Member's view that, by creating a specific statutory offence of dog theft, the key part a dog plays in family life, will be recognised by courts.

Statement of compatibility under section 23(1) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024

76. Under section 23 of the United Nations Convention on the Rights of the Child (Incorporation) Scotland Act 2024, any member introducing a Bill in the Scottish Parliament is required to make a written statement about the extent to which "the provisions of the Bill would be compatible with the UNCRC requirements".

77. Maurice Golden MSP has made a statement that, in his view, the provisions of the Bill have a neutral impact on compatibility with the UNCRC requirements.

78. Section 3 amends the law on victim statements (in section 14 of the Criminal Justice (Scotland) Act 2003) so that victims of this statutory offence of dog theft are to be given the opportunity to make victim statements to the court about the effect of the crime upon them. Children may be victims of this new statutory offence of dog theft and therefore given the opportunity to make a statement. Section 14 of the 2003 Act provides that children over the age of 12 can make a statement and that a parent or carer can make a statement on their behalf of a child under 12.

79. Article 12 of the UNCRC provides for the child's right to freedom of expression, and for such views to be given due weight according to the child's age and maturity. Providing children who are victims of this new statutory offence of dog theft the opportunity to make statements about the effect of the crime upon them allows them to express themselves and for their views to be taken into account.

Island communities

80. The Member does not consider that there will be any specific impact on island communities, including because, dog theft is already illegal. Therefore, the law enforcement in island communities already have to police and prosecute incidents of dog theft.

Local government

81. The Member does not consider that there will be any significant impact on local government. The Bill creates a new offence, which will impact on Police Scotland, the Crown Office and Procurator Fiscal Service and the Scottish Courts and Tribunals Service. There is unlikely to be a significant impact of this offence other than a possible impact on local authority animal health and welfare officers/inspectors and dog wardens resulting from a possible increase in reporting of incidents of dog theft arising from the Bill. The data collation, sharing and reporting requirements will not involve local authorities.

Sustainable development

82. The Member carried out a sustainable development impact assessment during the development of his consultation document accompanying his draft proposal. As highlighted in his consultation document, the creation of a new offence of dog theft could have a positive impact on people and contribute towards a strong, healthy and just society by reducing the prevalence of the crime, ensuring that those guilty of it are punished appropriately and consistently and helping to address fear of the crime among the public. The Member considers that the provisions of the Bill could also promote health in terms of mental health as a reduction in dog theft would reduce the number of cases of trauma suffered due to the loss of a beloved pet by those who are victims of this crime. Furthermore, he considers that it will improve levels of animal welfare given the anxiety being stolen currently generates for a dog.⁷⁵

83. In relation to a sustainable economy, the Member considers that fewer incidences of theft from responsible breeders could encourage them to continue in their work and reduce the likelihood of them being put off because of the trauma and cost associated with previous thefts. This will ensure better welfare of dogs and higher mortality rates among dogs. The increased availability of responsibly bred puppies could help keep prices manageable for puppies; making responsibly bred puppies more affordable and limiting the instances where people turn to buying puppies from puppy farms which may have a link to organised crime. Finally, the Member believes that deterring or catching more individuals who consider dog theft as a means of income could help contribute to breaking up organised crime gangs.⁷⁶

⁷⁵ [Proposed Dog Abduction \(Scotland\) Bill - Final Proposal | Scottish Parliament](#)

⁷⁶ [Proposed Dog Abduction \(Scotland\) Bill - Final Proposal | Scottish Parliament](#)

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Dog Theft (Scotland) Bill

Policy Memorandum

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