

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

HOUSE BILL 2188

5 By: Representatives Napper, Mahony
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING ANIMAL CRUELTY;
10 TO PROHIBIT AGGRAVATED ANIMAL CRUELTY; TO REQUIRE
11 PSYCHOLOGICAL EVALUATION AND COUNSELING FOR
12 PERSONS WHO COMMIT ANIMAL CRUELTY; TO PROVIDE FOR
13 THE CARE OF VICTIMS OF ANIMAL CRUELTY; AND FOR
14 OTHER PURPOSES.

Subtitle

16 AN ACT TO AMEND THE LAW REGARDING ANIMAL
17 CRUELTY.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 5-62-101 is amended to read as follows:
24 5-62-101. Cruelty to animals.

25 (a) A person commits the offense of cruelty to animals if, except as
26 authorized by law, he or she knowingly:

- 27 (1) Abandons any animal;
28 (2) Subjects any animal to cruel mistreatment;
29 (3) Subjects any animal in his or her custody to cruel neglect;

30 or

31 (4) Kills or injures any animal belonging to another without
32 legal privilege or consent of the owner.

33 (b) Cruelty to animals is a Class A misdemeanor.

34 ~~(c)(1) In addition to all other penalties provided by law, the court~~
35 ~~may order any person found guilty of cruelty to animals to receive a~~
36 ~~psychiatric or psychological evaluation, and if determined appropriate,~~



~~psychiatric or psychological counseling or treatment.~~

~~(2) The cost of any evaluation, counseling, or treatment may be ordered paid by the defendant up to the jurisdictional limit of the court.~~

~~(d) If the person pleads guilty or nolo contendere to or is found guilty of cruelty to animals, the court may assign custody of the abused animal or animals to a society which is incorporated for the prevention of cruelty to animals.~~

(c) Notwithstanding any other provision of law, a violation of this section shall be a Class D felony if within the past five (5) years the defendant has been convicted, and the conviction has become final, on a separate prior occasion of any offense that has as an element the use, attempted use, or threatened use of violence toward or cruel mistreatment, cruel neglect, abandonment, or unauthorized killing of an animal.

SECTION 2. Arkansas Code Title 5, Chapter 62, Subchapter 1 is amended to add an additional sections to read as follows:

5-62-102. Aggravated cruelty to animals.

(a) A person commits the offense of aggravated cruelty to animals if he or she knowingly tortures or maliciously kills or starves any animal.

(b) Aggravated cruelty to animals is a Class D felony.

(c) Nothing in this section shall be construed as prohibiting conduct that is otherwise authorized by law or legal privilege, including, but not limited to:

(1) Engaging in the lawful taking of game or fish, or any other activity authorized by Amendment 35 of the Arkansas Constitution, Title 15, Chapters 41 through 46 of the Arkansas Code, or any Arkansas Game and Fish Commission regulations;

(2) Engaging in routine accepted livestock, poultry, or aquaculture management practices;

(3) Protecting livestock and poultry under § 20-19-102;

(4) Engaging in practices lawful under the Arkansas Veterinary Medical Practice Act, § 17-101-101 et seq.; and

(5) Engaging in practices lawful under the Arkansas Pest Control Law, § 17-37-101 et seq.

5-62-103. Mental health evaluation and counseling.

1 (a) In addition to all other penalties provided by law, if a person
 2 enters a plea of guilty, nolo contendere, or upon a finding of guilt for a
 3 violation of §§ 5-62-101 or 5-62-102, the court may order the defendant to
 4 undergo a psychiatric or psychological evaluation and psychiatric or
 5 psychological counseling or treatment.

6 (b) The cost of any evaluation, counseling, or treatment may be
 7 ordered paid by the defendant up to the jurisdictional limit of the court.

8
 9 5-62-104. Disposition of abused animals.

10 (a) Upon the charge or arrest of any person for violating the
 11 provisions of §§ 5-62-101 or 5-62-102, any law enforcement officer, animal
 12 control officer, or agent of a society incorporated for the prevention of
 13 cruelty to animals may seize and take custody of all animals in the
 14 possession of the arrested person.

15 (b) If the person pleads guilty or nolo contendere to or is found
 16 guilty of violating §§ 5-62-101 or 5-62-102, the court may assign custody of
 17 the abused animal or animals to a society that is incorporated for the
 18 prevention of cruelty to animals.

19
 20 5-62-105. Animal research excluded.

21 The provisions of this §§ 5-62-101 through 5-62-104 do not apply to
 22 research and education activities conducted in accordance with the Animal
 23 Welfare Act, 7 USC § 2131 et seq. as it existed on January 1, 2003, or the
 24 Health Research Extension Act of 1985, Pub. L. No. 99-158 as it existed on
 25 January 1, 2003, or to research and education activities conducted at
 26 facilities that have in place institutional policies that provide assurance
 27 that the activities are conducted pursuant to the Animal Welfare Act or
 28 Health Research Extension Act of 1985.

29
 30 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
 31 General Assembly of the State of Arkansas that adequate investigative,
 32 enforcement, and intervention resources will not be available for the
 33 identification of serious offenders and appropriate rehabilitative efforts
 34 unless the General Assembly recognizes, by the upgrading of extreme crimes
 35 against animals to the status of a felony, the seriousness of the threat
 36 against society posed by such violators. Therefore, an emergency is declared

1 to exist and this act being immediately necessary for the preservation of the
2 public peace, health, and safety shall become effective on:

3 (1) The date of its approval by the Governor;

4 (2) If the bill is neither approved nor vetoed by the Governor,
5 the expiration of the period of time during which the Governor may veto the
6 bill; or

7 (3) If the bill is vetoed by the Governor and the veto is
8 overridden, the date the last house overrides the veto.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36