

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 *As Engrossed: H3/19/03 H3/24/03 S4/1/03 S4/11/03*

2 84th General Assembly

# A Bill

3 Regular Session, 2003

HOUSE BILL 2248

4

5 By: Representative Blair

6 By: *Senator J. Jeffress*

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## For An Act To Be Entitled

10 *AN ACT CONCERNING CRUELTY TO ANIMALS AND RELATED*  
11 *OFFENSES; CONCERNING ANIMAL MANAGEMENT PRACTICES;*  
12 *AND FOR OTHER PURPOSES.*

13

### Subtitle

14

*AN ACT CONCERNING CRUELTY TO ANIMALS AND*  
15 *RELATED OFFENSES; AND CONCERNING ANIMAL*  
16 *MANAGEMENT PRACTICES.*

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 *SECTION 1. Arkansas Code § 5-62-101 is amended to read as follows:*

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*5-62-101. Cruelty to animals.*

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

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*(1) Abandons any animal;*

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*(2) Subjects any animal to cruel mistreatment;*

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*(3) Subjects any animal in his or her custody to cruel neglect;*

28 *or*

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

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

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

36

~~*(2) The cost of any evaluation, counseling, or treatment may be*~~



1 ~~ordered paid by the defendant up to the jurisdictional limit of the court.~~

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

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

9 5-62-102. Aggravated cruelty to a dog, cat, or horse.

10 (a) A person commits the offense of aggravated cruelty to a dog, cat,  
11 or horse if he or she knowingly and intentionally tortures, mutilates, maims,  
12 burns, poisons, or starves any dog, cat, or horse.

13 (b)(1) Aggravated cruelty to a dog, cat, or horse is a Class A  
14 misdemeanor.

15 (2) Any person who pleads guilty or nolo contendere to or is  
16 found guilty of violating subsection (a) of this section for a second or  
17 subsequent offense for conduct which occurred within the five (5) years  
18 preceding the commission of the current offense shall be guilty of a Class D  
19 felony.

20 (c)(1) In addition to all other penalties provided by law, the court  
21 may order any person who pleads guilty or nolo contendere to or is found  
22 guilty of violating subsection (a) or (b) of this section to receive a  
23 psychiatric or psychological evaluation, and if determined appropriate,  
24 psychiatric or psychological counseling or treatment.

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

27 (d) If the person pleads guilty or nolo contendere to or is found  
28 guilty of aggravated cruelty to a dog, cat, or horse the court may assign  
29 custody of the abused animal or animals to a society which is incorporated  
30 for the prevention of cruelty to animals.

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32 5-62-103. Exemptions.

33 (a) Nothing in this subchapter shall be construed to prohibit the  
34 following conduct:

35 (1) Protecting livestock and poultry as authorized by § 20-10-  
36 102; or

1           (2) Engaging in practices lawful under the Arkansas Veterinary  
2 Medical Practices Act, § 17-101-101 et seq., as amended; or

3           (b) Nothing in this subchapter shall be construed to prohibit a pet  
4 breeder, his or her consignees, and their employees from performing routine  
5 accepted management practices on animals belonging to the pet breeder and  
6 produced for commerce.

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8           5-62-104. Animal research excluded.

9           This subchapter does not apply to research and education facilities:

10           (1) Regulated under the provisions of:

11                   (A) The Animal Welfare Act, 7 U.S.C. 2131 et seq.; or

12                   (B) The Health Research Extension Act of 1985, Public Law  
13 99-158; or

14           (2) Which have an institutional animal care and use committee  
15 that reviews and approves research or maintenance protocols involving animals  
16 in the facility.

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18           SECTION 3. Arkansas Code § 5-62-110 is amended to read as follows:

19           5-62-110. Definitions.

20           (a) As used in this act, unless the context otherwise requires:

21                   (1) ~~"Animal" or "dumb animal" includes every living creature~~  
22 means a domesticated living creature or wild living creature previously  
23 captured;

24                   (2) "Torture", "torment", or "cruelty" include every act,  
25 omission, or neglect whereby unjustifiable physical pain, suffering, or death  
26 is caused or permitted;

27                   (3) "Owner" and "person" include corporations as well as  
28 individuals.

29           (b) Nothing in this act shall be construed as prohibiting the ~~shooting~~  
30 taking of birds, fish, or other game for the purpose of human food.

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32           SECTION 4. Arkansas Code § 5-62-113 is repealed.

33           ~~5-62-113. Authority to make arrests.~~

34           ~~The agents of any society which is incorporated for the prevention of~~  
35 ~~eruelty to animals, upon being appointed by the president of the society in~~  
36 ~~any county of this state, may, within the county, make arrests and bring~~

1 ~~before any court or magistrate having jurisdiction, any offenders found~~  
2 ~~violating the provisions of this act.~~

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4 SECTION 5. Arkansas Code § 5-62-114 is amended to read as follows:

5 5-62-114. Authority to take charge of animals and vehicles of arrested  
6 person.

7 When any person arrested by a law enforcement officer is, at the time  
8 of arrest, in charge of any vehicle drawn by or containing any animal, ~~any~~  
9 ~~agent of a society for the prevention of cruelty to animals~~ the law  
10 enforcement officer may take charge of the animal and the vehicle and its  
11 contents and deposit them in a safe place of custody, or deliver them into  
12 the possession of the police or sheriff of the county or place wherein the  
13 arrest was made or a society for the prevention of cruelty to animals in the  
14 county, who shall thereupon assume the custody thereof.

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16 SECTION 6. Arkansas Code § 20-19-102 is amended to read as follows:

17 20-19-102. Injuries to domesticated animals by dogs.

18 (a)(1) "Domesticated animals" includes, but is not limited to, sheep,  
19 goats, horses, cattle, swine, and poultry.

20 (2) Any person owning or having in possession or under control  
21 any dog shall be liable in damages to the owner or owners of any domesticated  
22 animals killed or injured by the dog in the full value of the domesticated  
23 animal killed or injured.

24 (b)(1) Any person engaged in raising domesticated animals or owning  
25 any domesticated animals who shall sustain any loss or damages to his or  
26 their domesticated animals by any dog shall have a right of action against  
27 the owner, person, or controller of the dog.

28 (2) Any person knowing that any dog has killed or is about to  
29 catch, injure, or kill any domesticated animal shall have the right to kill  
30 the dog, without in any way being liable to the owner of the dog in any  
31 courts of this state.

32 (3) Any person who knows, or has reasonable cause to know, that  
33 any domesticated animal is stray, abandoned, or diseased and may be a threat  
34 to his person or property shall have the legal privilege to kill the such  
35 animal and shall be immune from judicial action both civil and criminal.

36 (c) The person sustaining loss or damage as mentioned in this section

1 and desiring remuneration therefor may go before some justice of the peace of  
2 the county wherein the loss or damage occurred and make oath of the character  
3 of the loss or damage sustained, the value of the loss or damage, the dog or  
4 dogs, and the owner, possessor, or controller of the dog and file the same  
5 with the justice, who shall issue a summons stating the nature of the  
6 plaintiff's claim, the amount claimed, and the cost accrued, which shall be  
7 served and returned as in ordinary actions.

8 (d)(1) If the defendant shall pay to the officer serving the summons  
9 the amount of damages claimed, the costs endorsed, and a further fee to the  
10 officer of twenty-five cents (25¢) for making the return, the summons shall  
11 be returned satisfied, and no further proceedings had.

12 (2) If the defendant fails, neglects, or refuses to pay that  
13 amount, the justice shall try the cause as in other ordinary actions and give  
14 judgment in favor of plaintiff for the amount proved in the cause, for which  
15 the defendant may be liable by the provisions of this section.

16 (e) In a second suit and recovery by any plaintiff against the same  
17 defendant on account of killing or injury done by the same dog, the justice  
18 shall render judgment for double the amount of damages proven.

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22 /s/ Blair  
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