

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: H2/16/17

A Bill

SENATE BILL 280

5 By: Senator E. Williams
6 *By: Representative Lynch*
7

For An Act To Be Entitled

9 AN ACT PROHIBITING CRUELTY TOWARDS CERTAIN TYPES OF
10 EQUINES UNDER THE CRIMINAL LAW; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

14 PROHIBITING CRUELTY TOWARDS CERTAIN TYPES
15 OF EQUINES UNDER THE CRIMINAL LAW.
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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 § 5-4-702(b), concerning enhanced penalties
22 for offenses committed in the presence of a child, is amended to read as
23 follows:

24 (b) Any person who commits the offense of aggravated cruelty to a dog,
25 cat, or ~~horse~~ equine under § 5-62-104 may be subject to an enhanced sentence
26 of an additional term of imprisonment not to exceed five (5) years if the
27 offense is committed in the presence of a child.
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29 SECTION 2. Arkansas Code § 5-4-703(a)(16), concerning additional fines
30 for offenses committed in the presence of a child, is amended to read as
31 follows:

32 (16) Aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-
33 104; or
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35 SECTION 3. Arkansas Code § 5-62-104 is amended to read as follows:

36 5-62-104. Offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine



1 - Definition.

2 (a) A person commits the offense of aggravated cruelty to a dog, cat,
3 or ~~horse~~ equine if he or she knowingly tortures any dog, cat, or ~~horse~~
4 equine.

5 (b) A person who pleads guilty or nolo contendere to or is found
6 guilty of aggravated cruelty to a dog, cat, or ~~horse~~ equine:

7 (1) Shall be guilty of a Class D felony;

8 (2) May be ordered to perform up to four hundred (400) hours of
9 community service; and

10 (3) Both:

11 (A) Ordered to receive a psychiatric or psychological
12 evaluation; and

13 (B) If determined appropriate, ordered to receive
14 psychiatric or psychological counseling or treatment for a length of time
15 prescribed by the court.

16 (c) A person who pleads guilty or nolo contendere to or is found
17 guilty of aggravated cruelty to a dog, cat, or ~~horse~~ equine for a subsequent
18 offense occurring within five (5) years from a previous offense of aggravated
19 cruelty to a dog, cat, or ~~horse~~ equine or of any other equivalent penal
20 offense of another state or foreign jurisdiction is guilty of a Class C
21 felony and shall be:

22 (1) Ordered to receive a psychiatric or psychological
23 evaluation; and

24 (2) If determined appropriate, ordered to receive psychiatric or
25 psychological counseling or treatment for a length of time prescribed by the
26 court.

27 (d) The cost of any psychiatric or psychological evaluation,
28 counseling, or treatment ordered under this section shall be paid by the
29 person ordered to receive the psychiatric or psychological evaluation,
30 counseling, or treatment.

31 (e) For purposes of this section, each alleged act of the offense of
32 aggravated cruelty to a dog, cat, or ~~horse~~ equine committed against more than
33 one (1) dog, cat, or ~~horse~~ equine may constitute a separate offense.

34 (f)(1) For the sole purpose of calculating the number of previous
35 offenses under subsection (b) of this section, all offenses of aggravated
36 cruelty to a dog, cat, or ~~horse~~ equine that are committed against one (1) or

1 more dogs, cats, or ~~horses~~ equines, as part of the same criminal episode are
2 a single offense.

3 (2) As used in this section, "criminal episode" means an act
4 that constitutes the offense of aggravated cruelty to a dog, cat, or ~~horse~~
5 equine, committed by a person against one (1) or more dogs, cats, or ~~horses~~
6 equines within a period of twenty-four (24) hours.

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8 SECTION 4. Arkansas Code § 5-62-106(d) and (e), concerning the
9 disposition of an animal, are amended to read as follows:

10 (d)(1) If a person pleads guilty or nolo contendere to or is found
11 guilty of either the offense of cruelty to animals, § 5-62-103, or the
12 offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104, and
13 if that person is also the owner of the animal subject to the offense, the
14 court shall divest the person of ownership of the animal, and the court shall
15 either:

16 (A) Order the animal given to an appropriate place of
17 custody;

18 (B) Order the animal euthanized if the court decides that
19 the best interests of the animal or that the public health and safety would
20 be best served by euthanizing the animal based on the sworn testimony of a
21 licensed veterinarian or animal control officer; or

22 (C) Make any other disposition the court deems
23 appropriate.

24 (2) If a person pleads guilty or nolo contendere to or is found
25 guilty of either the offense of cruelty to animals, § 5-62-103, or the
26 offense of aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104, and
27 the person is not the owner of the animal subject to the offense, the court
28 shall order that the animal be returned to the owner, if practicable, or, if
29 not practicable, the court shall either:

30 (A) Order the animal given to an appropriate place of
31 custody;

32 (B) Order the animal euthanized if the court decides that
33 the best interests of the animal or that the public health and safety would
34 be best served by euthanizing the animal based on the sworn testimony of a
35 licensed veterinarian or animal control officer; or

36 (C) Make any other disposition the court deems

1 appropriate.

2 (e) The court shall order an animal seized under this section returned
3 to the owner if the owner:

4 (1) Filed a petition under subsection (a) of this section;

5 (2) Paid all reasonable expenses incurred in caring for the
6 animal; and

7 (3) Is found not guilty of the offense of cruelty to animals, §
8 5-62-103, or the offense of aggravated cruelty to a dog, cat, or ~~horse~~
9 equine, § 5-62-104, or the proceedings against the owner have otherwise
10 terminated.

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12 SECTION 5. Arkansas Code § 5-62-107 is amended to read as follows:

13 5-62-107. Immunity for reporting cruelty to animals or aggravated
14 cruelty to a dog, cat, or ~~horse~~ equine.

15 Except as provided in § 5-54-122, a person who in good faith reports a
16 suspected incident of cruelty to animals, § 5-62-103, or aggravated cruelty
17 to a dog, cat, or ~~horse~~ equine, § 5-62-104, to a local law enforcement agency
18 or to the Department of Arkansas State Police is immune from civil and
19 criminal liability for reporting the incident.

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21 SECTION 6. Arkansas Code § 5-62-111 is amended to read as follows:

22 5-62-111. Prevention of cruelty.

23 (a) A person may lawfully interfere to prevent the imminent or ongoing
24 perpetration of any offense of cruelty to animals, § 5-62-103, or aggravated
25 cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104, upon any animal in his or
26 her presence.

27 (b) Upon a conviction, a person who knowingly interferes with or
28 obstructs a person acting under subsection (a) of this section is guilty of a
29 Class A misdemeanor.

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31 SECTION 7. Arkansas Code § 5-62-116 is amended to read as follows:

32 5-62-116. Diseased animals – Sale.

33 (a) Upon conviction, a person who knowingly sells or offers for sale,
34 or uses, or exposes, or causes or procures to be sold or offered for sale, or
35 used, or to be exposed, any ~~horse~~ equine or other animal having the disease
36 known as “glanders” or “farcy” or any other contagious or infectious disease

1 known to the person to be dangerous to human life, or that is diseased past
2 recovery, is guilty of a Class A misdemeanor.

3 (b)(1) Upon discovery or knowledge of the animal's condition, any
4 animal having glanders or farcy shall be humanely killed by the owner or
5 person having charge of the animal, or arrangements shall be made to have the
6 animal euthanized.

7 (2) Upon conviction, an owner or person having charge of the
8 animal and knowingly omitting or refusing to comply with this section is
9 guilty of a Class A misdemeanor.

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11 SECTION 8. Arkansas Code § 5-62-126 is amended to read as follows:
12 5-62-126. Acts of God – Emergency conditions.

13 An owner of an animal or person in control of an animal is not guilty
14 of either the offense of cruelty to animals, § 5-62-103, or the offense of
15 aggravated cruelty to a dog, cat, or ~~horse~~ equine, § 5-62-104, if the owner
16 of the animal or the person in control of the animal was reasonably precluded
17 as the result of an act of God or emergency conditions from engaging in an
18 act or omission that might prevent an allegation of the offense of cruelty to
19 animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or
20 ~~horse~~ equine, § 5-62-104.

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22 SECTION 9. Arkansas Code § 9-28-409(e)(3)(KK), concerning criminal
23 record and child maltreatment checks, is amended to read as follows:

24 (K)(K) Offense of aggravated cruelty to a dog, cat, or
25 ~~horse~~ equine, § 5-62-104;

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27 */s/E. Williams*

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