

Hall of the House of Representatives

86th General Assembly - Regular Session, 2007

Amendment Form

Subtitle of House Bill No. 2788

"AN ACT CONCERNING CRUELTY TO ANIMALS AND RELATED OFFENSES AND
CONCERNING ANIMAL MANAGEMENT PRACTICES."

Amendment No. 1 to House Bill No. 2788.

Amend House Bill No. 2788 as originally introduced:

Delete everything after the enacting clause and substitute:

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

5-62-102. Aggravated cruelty to dogs, cats, and horses.

(a) A person commits the offense of aggravated cruelty to a dog, cat, or horse if he or she knowingly:

(1) Tortures a dog, cat, or horse, or takes any other action for the purpose of inflicting or prolonging pain upon the dog, cat, or horse;

(2)(A) Kills a dog, cat, or horse in an especially depraved manner.

(B) As used in this subdivision (a)(2), "especially depraved manner" means the person relishes the killing, evidencing debasement or perversion, or shows an indifference to the suffering of the dog, cat, or horse, evidencing a sense of pleasure in committing the killing;

(3) Fails to provide care sufficient to preserve the health and well-being of a dog, cat, or horse in the person's possession, and the failure to provide care results in the prolonged suffering or death of the dog, cat, or horse; or

(4)(A) Subjects a dog, cat, or horse to physical injury or trauma, including without limitation a fracture, cut, burn, puncture, or other wound or illness produced by violence or by a thermal or chemical agent, and the physical injury or trauma is committed in the immediate presence of a minor.

(B) As used in this subdivision (a)(4), "immediate presence" means the physical injury or trauma is knowingly committed in the minor's physical presence and is seen or directly perceived in any other manner by the minor.

(b) Aggravated cruelty to a dog, cat, or horse is a Class D felony.

(c)(1) In addition to any other penalty provided by law, a court shall order any person who pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or horse to receive a psychiatric or psychological evaluation, and if determined appropriate, psychiatric or



psychological counseling or treatment.

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

(d) If a person pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or horse, the court shall transfer ownership of the abused animal to a society that is incorporated for the prevention of cruelty to animals or to a municipal or county animal control and care agency.

(e)(1) Except as provided in subdivision (e)(2) of this section, if a person pleads guilty or nolo contendere to or is found guilty of aggravated cruelty to a dog, cat, or horse, the person is prohibited from owning or keeping any animal on any real property under his or her control for a period of five (5) years from the date of the plea or finding of guilt.

(2)(A) Upon the petition of a person who demonstrates that his or her financial livelihood is dependent upon an agricultural operation or a farming operation, a court may grant an exception to the prohibition in subdivision (e)(1) of this section for the owning or keeping of animals if the court determines that the agricultural animals or farm animals are essential to the operation and will not be at risk of abuse by the person.

(B) A court shall not grant an exception under subdivision (e)(2)(A) of this section for the owning or keeping of a dog, cat, or horse.

(3) A violation of subdivision (e)(1) of this section is a Class A misdemeanor.

(f) Nothing in this section shall be construed as prohibiting a person from:

(1) Defending himself or herself or another person from physical injury being imminently threatened or caused by an unconfined dog, cat, or horse;

(2) Injuring or killing an unconfined dog, cat, or horse on the person's property if the unconfined dog, cat, or horse is reasonably believed to constitute an imminent threat of physical injury or damage to the person's livestock or poultry;

(3) Providing professional veterinary care as a licensed veterinarian or his or her agent as defined by the Arkansas Veterinary Medical Practices Act, § 17-101-101 et seq.;

(4) Rendering emergency care, treatment, or assistance to a dog, cat, or horse that is abandoned, ill, injured, or in distress related to an accident or disaster if the person rendering the care, treatment, or assistance is:

(A) Acting in good faith;

(B) Not receiving compensation; and

(C) Acting as a reasonable and prudent person would act under similar circumstances;

(5) Conducting a bona fide animal research activity at an institution of higher education in the state or at a business entity that is registered with the United States Department of Agriculture under the Animal Welfare Act, 7 U.S.C. § 2131 et seq., as in effect on January 1, 2007, or subject to any other federal law or regulation governing animal research as in effect on January 1, 2007;

(6) Euthanizing a dog, cat, or horse as provided under the definition of "euthanasia" under § 4-97-103;

(7)(A) Humanely killing a dog, cat, or horse that is suffering from an incurable or untreatable condition.

(B) As used in this subdivision (f)(7) of this section, "humanely" means in a swift manner designed to limit the pain of the animal as much as reasonably possible under the circumstances; or

(8) Performing accepted animal husbandry practices on a horse.

(g) As used in this section, "horse" means any member of the family Equidae.

SECTION 2. Arkansas Code § 5-62-113 is amended to read as follows:
5-62-113. Authority to make arrests — Training and certification.

(a)(1) Upon being appointed by the president of any society which is incorporated for the prevention of cruelty to animals in any county of this state and upon certification as an animal cruelty investigator as set forth in subsection (b) of this section, an agent of the society within the county may make arrests and bring before any court or magistrate having jurisdiction any offender found violating the provisions of this section, §§ 5-62-110—5-62-112, and §§ 5-62-114—5-62-119 subchapter.

(2) When serving a warrant issued pursuant to this subchapter for a felony offense under § 5-62-102, the certified animal cruelty investigator shall be accompanied by a certified law enforcement officer, the warrant shall be served by the certified law enforcement officer, and any arrest made for a felony offense under § 5-62-102 shall be made by the certified law enforcement officer.

(b)(1) The Criminal Justice Institute shall promulgate rules concerning the training and certification requirements for an animal cruelty investigator described in subsection (a) of this section.

(2) Initial training requirements for an animal cruelty investigator shall include a minimum of:

(A) Twenty (20) hours on the basic health and husbandry of animals; and

(B) Twenty (20) hours on the legal aspects of animal cruelty investigation.

(3) Continuing training requirements for an animal cruelty investigator shall include a minimum of twelve (12) hours of continuing education each year on issues relevant to the enforcement of this subchapter.

(4) The costs of obtaining the training and certification for an animal cruelty investigator under this section shall be paid by the entity that seeks to obtain the certification as an animal cruelty investigator for its agent.

SECTION 3. NOT TO BE CODIFIED.

The requirement for certification as an animal cruelty investigator under § 5-62-113 shall become effective on July 1, 2008."

The Amendment was read _____
By: Representative Adcock
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Chief Clerk