

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.

INTERIM STUDY PROPOSAL 2007-134

State of Arkansas

As Engrossed: S3/15/07

86th General Assembly

A Bill

Regular Session, 2007

SENATE BILL 777

By: Senators Madison, J. Jeffress, Salmon, Whitaker, R. Thompson, *Argue*

By: Representatives Adcock, Webb, Saunders, Walters, Bond, L. Smith, *D. Johnson, Rosenbaum*

Referred to

Judiciary Committee - Senate

by the Arkansas Senate

on 04/02/2007

For An Act To Be Entitled

AN ACT CONCERNING AGGRAVATED CRUELTY TO DOGS,
CATS, AND HORSES; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING AGGRAVATED CRUELTY TO DOGS,
CATS, AND HORSES.

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

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

1 horse, evidencing a sense of pleasure in committing the killing;

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

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

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

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

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

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

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

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

34 (2)(A) Upon the petition of a person who demonstrates that his
35 or her financial livelihood is dependent upon an agricultural operation or a
36 farming operation, a court may grant an exception to the prohibition in

1 subdivision (e)(1) of this section for the owning or keeping of animals if
2 the court determines that the agricultural animals or farm animals are
3 essential to the operation and will not be at risk of abuse by the person.

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

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

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

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

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

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

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

24 (A) Acting in good faith;

25 (B) Not receiving compensation; and

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

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

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

36 (7)(A) Humanely killing a dog, cat, or horse that is suffering

1 from an incurable or untreatable condition.

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

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

6 (g) As used in this section, "horse" means any member of the family
7 Equi dae.

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10 SECTION 2. Arkansas Code § 5-62-113 is amended to read as follows:

11 5-62-113. Authority to make arrests — Training and certification.

12 (a)(1) Upon being appointed by the president of any society which is
13 incorporated for the prevention of cruelty to animals in any county of this
14 state and upon certification as an animal cruelty investigator as set forth
15 in subsection (b) of this section, an agent of the society within the county
16 may make arrests and bring before any court or magistrate having jurisdiction
17 any offender found violating the provisions of this section, §§ 5-62-110 —
18 5-62-112, and §§ 5-62-114 — 5-62-119 subchapter.

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

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

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

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

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

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

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