

REPORTS OF STANDING COMMITTEES

MADAM PRESIDENT:

The Committee on **Judiciary** recommends **HB 2071** be amended on page 3, following line 34, by inserting:

"Sec. 2. K.S.A. 2016 Supp. 21-6412 is hereby amended to read as follows: 21-6412. (a)

Cruelty to animals is:

(1) Knowingly and maliciously killing, injuring, maiming, torturing, burning or mutilating any animal;

(2) knowingly abandoning any animal in any place without making provisions for its proper care;

(3) having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal;

(4) intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;

(5) knowingly but not maliciously killing or injuring any animal; or

(6) knowingly and maliciously administering any poison to any domestic animal.

(b) Cruelty to animals as defined in:

(1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction of subsection (a) (1) or (a)(6), a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the

person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program; and

(2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

(A) Class A nonperson misdemeanor, except as provided in subsection (b)(2)(B); and

(B) nonperson felony upon the second or subsequent conviction of cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5). Upon such conviction, a person shall be sentenced to not less than five days or more than one year's imprisonment and be fined not less than \$500 nor more than \$2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein.

(c) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) bona fide experiments carried on by commonly recognized research facilities;

(3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated, and amendments thereto;

(4) rodeo practices accepted by the rodeo cowboys' association;

(5) the humane killing of an animal ~~which~~ that is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, ~~pound~~ or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of ~~an incorporated humane society, the operator of an animal shelter or pound,~~ a local or state health officer or a licensed veterinarian three business days following

the receipt of any such animal at such ~~society~~, shelter or pound;

(6) with respect to farm animals, normal or accepted practices of animal husbandry, including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

(7) the killing of any animal by any person at any time ~~which~~ that may be found outside of the owned or rented property of the owner or custodian of such animal and ~~which~~ that is found injuring or posing a threat to any person, farm animal or property;

(8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;

(9) laying an equine down for medical or identification purposes;

(10) normal or accepted practices of pest control, as defined in ~~subsection (x)~~ of K.S.A. 2-2438a(x), and amendments thereto; or

(11) accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.

(d) The provisions of subsection (a)(6) shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes or other predatory animals.

(e) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any ~~incorporated humane society~~, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, ~~which~~ that clearly shows evidence of cruelty to animals. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a ~~duly incorporated humane society~~ an animal shelter or licensed veterinarian for

treatment, boarding or other care or, if an officer of such ~~humane society~~ animal shelter or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. ~~If the animal is placed in the care of an animal shelter, the animal shelter shall notify~~ The owner or custodian, if known or reasonably ascertainable, shall be notified in writing. If the owner or custodian is charged with a violation of this section, ~~the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby~~ the law enforcement agency, district attorney's office, county prosecutor, veterinarian or animal shelter may petition the district court ~~to be allowed~~ in the county in which the animal was taken into custody to place the animal for adoption or euthanize transfer ownership of the animal at any time after 21 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the county clerk of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be ~~placed for adoption or euthanized~~. ~~The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being charged by the animal shelter maintaining the animal~~ transferred.

(f) The owner or custodian of an animal ~~placed for adoption or killed~~ transferred pursuant to subsection (e) shall not be entitled to recover damages for the ~~placement or killing~~ transfer of such animal unless the owner proves that such ~~placement or killing~~ transfer was unwarranted.

(g) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (e), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(h) If a person is adjudicated guilty of the crime of cruelty to animals, ~~and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime,~~ such animal shall not be returned to or remain with such person. Such animal may be turned over to ~~a duly incorporated humane society~~ an animal shelter or licensed veterinarian for sale or other disposition.

(i) As used in this section:

(1) "Animal shelter" means the same as such term is defined in K.S.A. 47-1701, and amendments thereto;

~~(2)~~ "equine" means a horse, pony, mule, jenny, donkey or hinny; and

~~(2)-(3)~~ "maliciously" means a state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

Sec. 3. K.S.A. 2016 Supp. 21-6414 is hereby amended to read as follows: 21-6414. (a) Unlawful conduct of dog fighting is:

(1) Causing, for amusement or gain, any dog to fight with or injure another dog, with no requirement of culpable mental state;

(2) knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; or

(3) training, owning, keeping, transporting or selling any dog with the intent of having it fight with or injure another dog.

(b) Unlawful possession of dog fighting paraphernalia is possession, with the intent to use in the unlawful conduct of dog fighting, any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia.

(c) Unlawful attendance of dog fighting is, entering or remaining on the premises where the unlawful conduct of dog fighting is occurring, whether the person knows or has reason to know that

dog fighting is occurring on the premises.

(d) (1) Unlawful conduct of dog fighting is a severity level 10, nonperson felony.

(2) Unlawful possession of dog fighting paraphernalia is a class A nonperson misdemeanor.

(3) Unlawful attendance of dog fighting is a class B nonperson misdemeanor.

(e) When a person is arrested under this section, a law enforcement agency may take into custody any dog on the premises where the dog fight is alleged to have occurred and any dog owned or kept on the premises of any person arrested for unlawful conduct of dog fighting, unlawful attendance of dog fighting, or unlawful possession of dog fighting paraphernalia.

(f) When a law enforcement agency takes custody of a dog under this section, such agency may place the dog in the care of ~~a duly incorporated humane society~~ an animal shelter or licensed veterinarian for boarding, treatment or other care. If it appears to a licensed veterinarian that the dog is diseased or disabled beyond recovery for any useful purpose, such dog may be humanely killed. The dog may be sedated, isolated or restrained if such officer, agent or veterinarian determines it to be in the best interest of the dog, other animals at the animal shelter or personnel of the animal shelter. ~~If the dog is placed in the care of an animal shelter, the board of county commissioners in the county where the animal was taken into custody shall establish and approve procedures whereby~~ The law enforcement agency, district attorney's office, county prosecutor, veterinarian or animal shelter may petition the district court in the county in which the animal was taken into custody to be allowed to ~~place the dog for adoption or euthanize~~ transfer ownership of the dog at any time after 21 days after the dog is taken into custody, unless the owner or custodian of the dog files a renewable cash or performance bond with the county clerk of the county where the dog is being held, in an amount equal to not less than the cost of care and treatment of the dog for 30 days. Upon receiving such petition, the court shall determine whether the dog may be ~~placed for adoption or euthanized~~. ~~The board of county commissioners in the county where the animal was taken into custody shall review the cost of care and treatment being~~

~~charged by the animal shelter maintaining the animal~~ transferred. Except as provided in subsection (g), if it appears to the licensed veterinarian by physical examination that the dog has not been trained for aggressive conduct or is a type of dog that is not commonly bred or trained for aggressive conduct, the district or county attorney shall order that the dog be returned to its owner when the dog is not needed as evidence in a case filed under this section or K.S.A. 2016 Supp. 21-6412, and amendments thereto. The owner or keeper of a dog ~~placed for adoption or humanely killed~~ transferred under this subsection shall not be entitled to damages unless the owner or keeper proves that such ~~placement or killing transfer~~ transfer was unwarranted.

(g) If a person is convicted of unlawful conduct of dog fighting, unlawful attendance of dog fighting or unlawful possession of dog fighting paraphernalia, a dog taken into custody pursuant to subsection (e) shall not be returned to such person and the court shall order the owner or keeper to pay to the animal shelter all expenses incurred for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to conviction of the owner or keeper. Disposition of such dog shall be in accordance with K.S.A. 2016 Supp. 21-6412, and amendments thereto. If no such conviction results, the dog shall be returned to the owner or keeper and the court shall order the county where the dog was taken into custody to pay to the law enforcement agency, veterinarian or animal shelter all expenses incurred ~~by the shelter~~ for the care, treatment and boarding of such dog, including any damages caused by such dog, prior to its return.

(h) A person who violates the provisions of this section may also be prosecuted for, convicted of; and punished for cruelty to animals.

(i) As used in this section, "animal shelter" means the same as such term is defined in K.S.A. 47-1701, and amendments thereto."

Also on page 3, in line 35, by striking "is" and inserting ", 21-6412 and 21-6414 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "and" and inserting a comma; also in line 1, after "punishment" by inserting "and criminal procedure"; also in line 1, after the second semicolon by inserting "cruelty to animals; unlawful conduct of dog fighting;"; in line 2, after "21-5414" by inserting ", 21-6412 and 21-6414"; in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

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Chairperson