

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 9, 2006 in Room 313-S of the Capitol.

All members were present except:
Michael Peterson- excused
Paul Davis- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:
Julie Breault, Heartland Animal Hospital, Wichita
Sam Mosshart, Kansas Federation of Animal Owners
Lee Brand, Power for Pups
Dorothy McRae, Individual, Hays
Brent Haden, Kansas Livestock Association
Cindy Sellers, Magnum Force of Kansas
Pat Hurley, Humane Kansas Legislative Network
Peter Wood, Humane Society of United States
Jennifer Campbell, Kansas Humane Society
Midge Grinstead, Lawrence Humane Society
Sara Welch, Johnson County District Attorney
Chris Schneider, Wyandotte County District Attorney

Chairman O'Neal opened the hearing on **HB 2725 - cruelty to animals**.

Julie Breault, Heartland Animal Hospital, appeared before the committee to relay the story of Magnum, a black Labrador puppy, which was found in a dumpster, that had been bound by wire around it legs and mouth and had patches of hair missing all over it's body. A veterinarian tried to treat his injuries but he died four days later. She supported the proposed bill because of the horrific things people are capable of doing to animals. (Attachment 1)

Pat Hurley, Humane Kansas Legislative Network, appeared as a proponent of the bill but requested several amendments:

1. Amending the definition of "serious physical injury"
2. Any act not covered in section (a)(1) would remain a class A misdemeanor
3. Take the non-person felony off grid to avoid presumptive probation
4. Prohibit offenders convicted of felony acts of animal cruelty from owning any animal for a period of five years from the date of conviction.
5. Include classification of the crime of killing or injuring police, arson, assistant, game warden, or search and rescue dogs from a misdemeanor to a non-person felony (Attachment 2)

Peter Wood, Humane Society of United States, supported the proposed bill and also the suggested amendments. He stated that violent acts towards animals are cruel and not only traumatizes the animals who are victims but also the individuals who own them and the community as a whole. Thirty-five states consider certain acts of animal cruelty a felony on the first offense. (Attachment 3)

Chris Schneider, Wyandotte County District Attorney, relayed the story of Scruffy, a Yorkshire Terrier, who had been set of fire, then beaten with a shovel and the kids then tried to decapitate the dog. They video taped the incident. They charged the individuals with arson and animal cruelty and obtained a felony conviction. (Attachment 4)

Sara Welch, Johnson County District Attorney, stated that there is a link between animal violence and human violence. Virtually all serial killers reported torching animals in their youth. Because the link is so strong, those who abuse animals need to be identified and labeled as felons. (Attachment 5)

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 9, 2006 in Room 313-S of the Capitol.

Jennifer Campbell, Kansas Humane Society, commented that the types of acts the proposed bill is targeting are not intentional acts but well planned out and hateful acts. Kansas needs stronger laws that will stop this type of abuse. ([Attachment 6](#))

Midge Grinstead, Lawrence Humane Society, reported that 25% of inmates stated that they did substantial cruelty acts towards animals in their childhood; in families with child abuse, 88% had also abused their animals and 71% of battered women seeking shelter reported that their male partner had threatened, harmed or killed their pets. ([Attachment 7](#))

Cindy Sellers, Magnum Force of Kansas, showed the committee a collection of petitions which had almost 80,000 signatures supporting the change in current law. ([Attachment 8](#))

Lee Brand, Power for Pups, main concern was the connection of violent abuse of animals and violence against humans. ([Attachment 9](#))

Dorothy McRae, Individual, relayed a story of horses that had not been taken care of and the individuals were tried in Colorado where they received a \$20,000 fine and 60 days in jail. ([Attachment 10](#))

Brent Haden, Kansas Livestock Association, appeared in support of the proposed bill but requested an amendment to continue the exemption of farm animals by adding on page 2, line 3, "including but not limited to, the slaughter of animals for food or by-products." ([Attachment 11](#))

Sam Mosshart, Kansas Federation of Animal Owners, supported legislation that would strengthen the penalties for persons found guilty of deliberately and maliciously being cruel to animal but also stressed the need to protect individual animal breeders from unjust attacks. ([Attachment 12](#))

The hearing on **HB 2725** was closed.

Committee minutes from February 1, 2, & 6 were distributed via e-mail. If no changes are requested March 14th they will stand approved.

The committee meeting adjourned at 5:10 p.m. The next committee meeting was scheduled for 3:30 p.m. on February 13, 2006 in room 313-S.

Julie A. Breault
Practice Manager
Heartland Animal Hospital

February 2nd, 2006

Good Morning Ladies and Gentlemen. I am here today to relay my feelings as an animal caretaker. The majority of pets that I see are loved and treated as if they were one of the family, but I also see neglect in varying degrees on a weekly basis. We see anywhere from the dog left in the bag yard with just the bare necessities, given minimal human interaction, to the under weight, flea ridden, arthritic burdened pet that should have had medical care much sooner than it did. Some of this neglect is due to ignorance of the owner or an over worked, over stressed life that we live that doesn't allow for even the most minimal of time that a pet deserves. Our job as caretakers is to educate our clients as best we can and offer alternatives if they find the responsibilities of pet ownership are too much for them to handle. On occasion we come into contact with cases of abuse or neglect that we cannot attribute to a lack of time or knowledge in caring for a pet. These situations are obvious cases of torture and abuse resulting from intentional acts. Magnum was one of these cases. The people that commit these acts are the people that should be punished.

I know that I don't have to convince you how horrible it is to see animals that have been abused but I feel I must try to make you understand the feeling of utter disbelief in knowing that someone could inflict such pain on another living being. When a little bundle of black fur entered our clinic screaming in pain everyone came to see what the problem was. We were told by the animal control officer that he was taken out of a dumpster. We were all shocked at what we saw. A black puppy bound with wire. The wire started around a back leg that was obviously bent abnormally then wound up around a front paw that was held in his mouth by the same wire. He was missing patches of hair all over his body and had maggots covering open wounds. Instead of euthanizing Magnum we felt his injuries were potentially treatable. Unfortunately we soon found that his injuries were too severe for even the most capable of Doctors. Magnum died a mere 4 days later.

The hunt for Magnum's abusers has, to this day, been unsuccessful. The person or people who committed this act of heinous torture were not ignorant or neglectful. They were malicious and deliberate in their behavior. They knew exactly what sort of pain and injury they were inflicting on this defenseless puppy. They did it for reasons I hope to never understand. These are the people I want to see in prison. These are the people I hope neither me nor my children ever come into contact with. I want people who are capable of doing something such as this to know that Kansas takes this behavior very seriously and will impose serious penalties for what it is and hopes it *never* becomes. Please support a Bill that makes animal cruelty a felony offense the first time it happens. Thank You.

Sincerely,

Julie Breault
4046 N. Harding Rd.
Bel Aire, KS 67220
316-305-8944

House Judiciary

Date 2-9-06

Attachment # 1

Testimony
of
Patrick J. Hurley
on behalf of
Humane Kansas Legislative Network

Presented to the
House Judiciary Committee
on
February 9, 2006
on
HB 2725

House Judiciary

Date 2-9-06

Attachment # 2

Mr. Chairmen and Members of the House Judiciary Committee:

I am Pat Hurley and I appear on behalf of the Humane Kansas Legislative Network, which is a statewide coalition of supporters of enhancing the animal cruelty laws in Kansas.

We support the following amendments to the current law:

1. We support establishing the most serious acts of animal cruelty as felonies. That is achieved in HB 2725 and we compliment the sponsors of the bill for doing so. We would suggest for your consideration an amendment to define those acts of animal cruelty under section (a)(1) as follows:

(1) "Intentionally killing or causing serious physical injury to any animal."

"Serious physical injury" means any act to any animal which results in protracted disfigurement, protracted impairment of health, protracted loss or impairment of the function of a limb or bodily organ, or in excessive or repeated infliction of unnecessary pain or suffering, or causing the same to be done."

We would then suggest adding a new subsection (a)(5) to read:

"Causing any physical injury other than the acts described in subsection (a)(1)"

As in HB 2725 all acts so described other than (a)(1) would remain Class A misdemeanors.

2. We support mandating that offenders convicted of such felonies be subject to minimum jail sentences, fines, and psychological evaluation and counseling as needed. With the exception of the psychological evaluation, that is also contained in HB 2725.
3. We support establishing such acts as nonperson felonies and taking the sentencing "off-grid" to avoid the current "presumptive probation." That is also achieved in HB 2725. We would also recommend consideration of whether such mandatory sentence would be served in a local or state facility and that such be set forth in the bill.
4. We support amending K.S.A. 21-4317 to prohibit offenders convicted of felony acts of animal cruelty from owning any animal for a period of five years from the date of conviction. Under current law, such prohibition bars only a person convicted of unlawful conduct of dog fighting under K.S.A. 21-4315 from owning a dog for the same period.

5. We support amending K.S.A. 21-4318 to increase the current classification of the crime of killing or injuring police, arson, assistant, game warden, or search and rescue dogs from a misdemeanor to a non-person felony with the same mandatory provisions as for those acts under the proposed amendments to K.S.A. 21-4310(a)(1).

From the conferees that follow, your Committee will hear testimony describing heinous acts of cruelty to animals that have actually occurred and resulted in death or serious physical injury. You will hear the horrible details of the Scruffy case from Wyandotte County and the more recent Magnum case in Wichita, which we believe clearly should be considered felonious acts and the perpetrators charged accordingly.

You will also hear testimony of empirical studies from around the country that clearly demonstrates patterns of animal cruelty by perpetrators that frequently evolve into more serious acts against spouses, children, and other members of society.

You will also hear that over forty other states treat such acts of animal cruelty already as felonies and over thirty of those classify such acts as felonies on the first offense, for there is rarely a second chance to catch the same perpetrators.

Finally, you will be presented with petitions from different parts of the state, which now total probably in excess of 80,000 signatures from citizens calling upon the Legislature to make these changes in our laws.

In conclusion, after hearing all the testimony, we believe you will agree that such acts clearly rise to the level of felonies and that the perpetrators are a serious danger not only to animals but also to all of society and must be classified and sentenced accordingly.

As you listen to all of this testimony, you should keep in mind two questions—first, if acts of animal cruelty of such a violent, brutal, unconscionable nature do not rise to the level of a felony, what acts ever would; and second, if the perpetrators of such acts should not be prosecuted as felons, who should?

We think that you will agree with the conferees and sponsors this of bill who call for making such changes in the law.

Thank you and I will be happy to answer questions at the appropriate time.

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**Testimony on HB 2725
Presented to the House Judiciary Committee on
February 9, 2006**

**Statement by Peter Wood, Deputy Manager of Animal Cruelty Issues
The Humane Society of the United States**

I am here on behalf of The Humane Society of the United States (HSUS). We are the nation's largest animal protection organization, with more than 9 million members and constituents, nearly 55,000 of whom reside in Kansas. Thank you for the opportunity to appear in support of House Bill 2725 *with several key amendments.*

The HSUS strongly supports the intent of this bill – to strengthen animal cruelty laws in Kansas and, moreover, to create the strongest possible law to help end violence against animals and people. Kansans have reason to be concerned about instances of intentional animal cruelty, given that Kansas has two of the most noted animal cruelty cases in the country. Examples include the case of “Scruffy,” a 12-year old Yorkshire terrier who was set on fire in 1997 by four teenage boys in Kansas City, KS while they videotaped their actions; and most recently the case of “Magnum,” a Wichita puppy who was found last August covered with chemical burns and bound with wire.

These incidents do not necessarily point to an epidemic of violence against animals unique to Kansas, but rather they point to the fact that the general public is increasingly disturbed by and intolerant of the savage mistreatment of animals. This treatment has often lurked in the background, but has been ignored in part because of the prevailing attitude that the victims were “only animals.”

However, both the general public and the mental health community are wiser now, recognizing that such acts are often an indicator of other violence that is either being perpetrated concurrently with the animal abuse, or a predictor that such individuals are at high risk of becoming increasingly violent offenders. Recent research by psychologists, sociologists and criminologists has demonstrated that animal abuse is present in nearly 90% of the pet-owning homes where there is physical abuse of children. Other studies have shown that over 70% of pet-owning women seeking protection in women's shelters have had a loved pet threatened, injured or killed by their abusers. Similarly, the victimization of animals is associated with the abuse of the elderly and the disabled as well as with a significantly higher involvement in property crimes, drug crimes and violent offenses.

A common thread in all these forms of violence is often a need to gain power and control over others, and the realization by disturbed individuals that they can

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House Judiciary

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Attachment # 3

accomplish this by causing the death or suffering of a vulnerable living being. When such a pattern is established, it can have serious consequences for people as well as animals. There are many examples of early life histories of violent offenders, including school-yard shooters.

We must recognize that violence is violence and that intentional cruelty to animals is a violent act that traumatizes not only the creatures who are victimized, but also the people who care for them and the community as a whole. Having felony provisions available in the prosecution of animal abuse – the very first time that it is committed – provides valuable tools for the prevention of further violence. These provisions also provide a greater incentive to prosecutors who might be unwilling to pursue serious cases if the end result will only be a slap on the wrist.

Prosecutors are increasingly recognizing the value of taking animal cruelty offenses seriously as part of their toolbox for addressing violence at an early stage or early age, enhancing their ability to get offenders into the system at a time when intervention or treatment is most likely to be effective. They also see animal cruelty as a crime that creates enormous public concern. People are genuinely frightened by the prospect of there being no consequences or interventions for violent offenders who brutally and intentionally take the lives of innocent victims.

Thirty-five states, the District of Columbia, Puerto Rico and the Virgin Islands all consider certain acts of animal cruelty a felony on the first offense. The interest and concerns expressed today and during the last few months demonstrate that such protection is supported by all of us seeking to control the proliferation of all forms of violence in our society.

While the key element of a comprehensive cruelty law is to provide prosecutors with felony level penalties, we urge you to strengthen this bill by including the following amendments:

1. Amend Section 1 (a) (1) to read, “Intentionally or recklessly killing or causing serious physical injury to any animal;”
2. Amend Section 1 (a) (4) by adding the word “or” at the end of the sentence.
3. Amend Section 1 (a) by adding “(5) causing any physical injury other than the acts described in subsection (a) (1).”
4. Amend Section 1 (c) by adding “(2) ‘Serious physical injury’ means an act to any animal which results in protracted disfigurement, protracted impairment of health, protracted loss or impairment of the function of a limb or bodily organ, or in excessive or repeated infliction of unnecessary pain or suffering, or causing the same to be done.”

5. Amend Section 1 (d) by adding, beginning in line 25, following the word "imprisonment," "be fined not less than \$1,500, and undergo psychological counseling or complete an anger management treatment program."
6. Add language, such as that included in SB 408, Section 2, to prohibit those convicted of felony animal cruelty from owning a companion animal within five years of such conviction.

The HSUS runs the First Strike™ Program, which is a national campaign designed to raise public and professional awareness about the connection between animal cruelty and human violence. With the passage of H.B. 2725, we would be available to participate in a training program for law enforcement and animal control authorities in investigating and responding to cases of serious abuse or neglect. We look forward to working with you and appreciate your advancement of this essential legislation. The HSUS urges a favorable report on H.B. 2725, with our suggested amendments.

Remarks of Christopher L. Schneider, Assistant Wyandotte
County District Attorney, Concerning H.B. 2725

Before the Committee on the Judiciary of the
Kansas House of Representatives
February 9, 2006

Mr. Chairman and members of the committee:

As a representative of the Wyandotte County District Attorney's office, I appear before the committee in support of House Bill 2725, which would make intentionally killing, injuring, torturing, *burning*, or mutilating an animal a felony.

Six years ago today, my office was presented with a case of animal cruelty in which a Yorkshire Terrier by the name of Scruffy had been set on fire and then beaten with a shovel by four young men, ages 17-21. They then attempted to decapitate the dog. The men videotaped the dog burning and the subsequent beatings, and apparently viewed the tape multiple times in an atmosphere of great frivolity.

Animal cruelty of all types is a misdemeanor under the current law of our State. In the Scruffy case, we charged the perpetrators with arson, in addition to Animal Cruelty, in an effort to obtain a felony conviction. Because a pet was found by the courts to constitute property, the charge stuck.

Some cases of animal cruelty are just so heinous and so egregious that the perpetrators deserve more than a mere slap on the hands. The Scruffy case was one of those cases.

However, had the dog involved not been someone's property, say a wild or abandoned animal, there would have been no way to charge a felony. If Scruffy had merely been beaten with a shovel or decapitated, there would have been no way to charge the perpetrators with a felony. It is for this reason that K.S. A. 21-4310 should be amended to make truly cruel, heinous, egregious treatment of an animal a felony.

House Judiciary

Date 2-9-06

Attachment # 4

To: Chair of the House Judiciary Committee and Committee Members

From: Sara Welch

Re: HB 2725

Date: February 9, 2006

I have served on the Board of Directors of Wayside Waifs Humane Society in Kansas City since 1997. I have been a prosecutor in Johnson County for 16 years. During my tenure at Johnson County, I have prosecuted 24 animal abuse cases. I have been both a guest speaker and an instructor for Kansas animal control officers.

It is time for Kansas to join the majority of her sister states in making the most serious acts of animal abuse a felony. Passage of a felony animal abuse law is important for two reasons. First intentional and gratuitous cruelty toward animals is, in and of itself, an act in contravention of civilized society sufficient to warrant a felony designation under our state law. As a prosecutor, I have encountered vicious and unprovoked cruelty toward animals of almost every type. Most of the cases involved family pets. Many of the perpetrators were the animals' owners.

A sampling of my cases is as follows:

- A man confined his beagle to a small bathroom and starved it nearly to death. Upon vacating his residence, he put the still living dog into a trash bag and threw it under the crawlspace of the house;
- A man abusing methamphetamine tortured his daughter's little Pug dog in front of her. He kicked and hit the dog, finally impaling it with a racket. The dog had to be euthanized;
- A man hanged two of his dogs by a chain in his barn. A passerby called the police who arrived on the scene to prevent him from hanging the third;
- A six-month old puppy was beaten to death with a pipe. A neighbor, hearing the dog's cries, called the police;
- A cat was thrown against the wall breaking its leg;
- A man who was angry at his girlfriend and kicked her Husky dog to near death; and
- A man tore the head off of his girlfriend's pet cockatiel.

Each of these perpetrators was deserving of a felony conviction. The behavior in which they engaged was of such a vicious and anti-social nature that calling it a misdemeanor denigrates the suffering endured by each of these animals. The late Dr. Louis Camuti, an author

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and veterinarian once said, "Never believe that animals suffer less than humans. Pain is the same for them that it is for us." If one accepts that proposition as true, then it seems to follow that the sadistic infliction of pain on an animal calls for the perpetrator to be labeled a felon.

Felonies are by definition considered more serious crimes than misdemeanors. The more serious the crime, the more likely it will be designated a felony. If in fact we are to stay true to that understanding of the word "felony" then the time has come for enacting a felony animal abuse law in Kansas. As the law now stands in our state, if I reach into an open car window and steal a pack of gum - I have committed a felony. If I walk into an attached open garage door and walk off with someone's garden rake - I have committed a felony. If that someone happens to be inside the house at the time, I have committed a level 5 person felony. And yet, if I (as did a 26 year old gang member in Los Angeles) tie my dog's tail in a knot, douse him in boiling water and then repeatedly shoot him with a taser gun, I am guilty of only a misdemeanor. There is something fundamentally wrong with a law which produces such an inequitable result.

Another and equally important reason exists for elevating the most heinous acts of animal abuse to felony status. That reason is what has become known as "the link." There exists a demonstrable link between those who perpetrate violence against animals and those who perpetrate violence against human beings. When animals in a home are abused, there is a very strong likelihood that other family members are being hurt as well.

Research conducted by DeViney, Dickert & Lockwood in 1983 showed a strong correlation between substantiated child physical abuse and abuse of pets in the same households. Animal abuse is also a companion of domestic abuse. A survey of pet-owning women seeking refuge in domestic violence shelters showed that 71% acknowledged that their partners had injured or killed their pets. (Ascione, 1998). Some of the so-called "school shooters" of the past decade including Kip Kinkel (Oregon), Luke Woodham (Mississippi) and Eric Harris (Columbine) abused animals before turning violent toward their fellow students. Finally, many of this country's most infamous serial killers abused and killed animals before graduating to human victims. Dennis Rader, the BTK killer, suffocated cats and dogs long before he began killing human beings. Jeffrey Dahmer, Albert Desalvo (the Boston Strangler), and David Berkowitz (the Son of Sam) had all abused animals during their lifetimes.

Because the link between animal abuse and violence to humans is so strong, those who abuse animals need to be identified and labeled as felons. If the worse acts of animal abuse are designated as felonies, then the prosecutor or judge who sees a felony conviction for animal abuse on a defendant's criminal history will know that he is dealing with someone who has committed a particularly vicious act of violence against an animal. He will know that this defendant is someone who, statistically, is likely to turn violent toward human beings. He will know that he is dealing with a person who has little regard for the suffering of others, be they animal or human. In short, the prosecutor or judge will know that the perpetrator with whom he is dealing is someone who has the potential to be a dangerous and violent offender.

Kansas needs to join her sister states in recognizing that the suffering of animals is a crime that will be taken seriously. Animal cruelty in its most heinous forms should be designated a felony in order to identify, tag and monitor those whose violence will likely turn from animals to humans. Equally as important, the sentencing judge should have the discretion to impose significant jail time on those who commit felony acts of animal abuse. Therefore, felony animal abuse should not be subject to the sentencing guideline grid. HB 2725 accomplishes both these goals.

Respectfully submitted,
Sara Welch



**THE KANSAS HUMANE SOCIETY
OF WICHITA KANSAS**

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**Written Testimony of
Jennifer Campbell, KHS Director of Communications
February 9, 2006**

My name is Jennifer Campbell and I am Director of Communications for the Kansas Humane Society, a private, non-profit animal shelter in Wichita. We are the largest animal shelter in the state and care for over 14,500 animals a year from Sedgwick and surrounding counties.

Last August, a small puppy was found in a recycling bin on Arkansas Street in Wichita. Just between 10 -12 weeks old and weighing a slight 8 pounds, he had been the victim of incredible violence. Severe lacerations, burns and open wounds covered his tiny body. From the way the wounds had opened, starting on his spine and creeping down his body, it was surmised that a liquid chemical had been intentionally poured across his back and dripped down his head, sides and legs. His skin had disappeared in many spots across his body, leaving raw muscle and tissue exposed to the elements and one of his legs was broken. Someone had then wrapped baling wire around his head, neck and front legs and then intentionally placed one of the puppy's paws in his mouth, barely allowing the puppy to breathe. The dying dog was then dumped in the recycling bin. Found by the City of Wichita's Animal Control Department, the mangled puppy was taken to Heartland Animal Hospital. Christened "Magnum", the clinic staff was amazed that, as soon as he was freed from the wires, Magnum valiantly endeavored to stand up and wag his tail, indicating that, even through all that had happened to him, he continued to trust people and had the will to live. Heroic veterinary measures were taken by the clinic to try to save Magnum's life. While his spirit was strong, his tiny abused body was not and he soon passed away. Wichita's community was outraged and heartbroken. How could this act of violence happen in this city? How could people prevent this from happening again? Would this happen again? Would it happen next to a person?

Animals rely on all of us, not only for protection and care, but to advocate and speak for them when necessary. We, at the Kansas Humane Society, are speaking today to you, the elected officials and the people of the state of Kansas, to understand the importance of passing legislation to enhance current animal cruelty laws. We are asking you to focus on the nature of the extensive violence perpetrated against Magnum, Scruffy and other animals. We are not talking about a minor injury, a small mistake made with a snap judgment decision; we are asking you to consider the consequences of willful abuse, of hateful acts that are planned and thought out with care, of cruelty inflicted on a living being with no thought to its suffering. Law enforcement officials and prosecutors have long acknowledged the strong link between animal abuse and violence against humans. Virtually all serial killers, including Wichita's Dennis Rader, have attested to first brandishing their violence against animals before turning against humans. In households where animal abuse is a problem, domestic violence or child abuse is often also occurring. How far is the step from committing serious injurious violence to an animal to committing serious injurious violence to a wife, a husband, or a child? By supporting more stringent animal cruelty laws today, you could be stopping tomorrow's murders and abusers.

We are asking you to give prosecutors and law enforcement officials the tools they need when facing the most intentional acts of animal cruelty and to trust in their stewardship of the law. It is vitally important this felony provision is available on the first offense, not the second, as most offenders are only caught once. By doing so, you can help communities recognize violent behavior and, with the mandatory counseling, may prevent it from escalating even further towards people. You can help protect the lives of animals and of people today and tomorrow.

Thank you.

House Judiciary

Date 2-9-06

Attachment # 6



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OF WICHITA KANSAS**

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Pat Wormhoudt

Executive Director

Kimberly Janzen

4218 Southeast Blvd.

Wichita, Kansas 67210

TEL 316-524-1590

FAX 316-554-0356

WEB www.kshumane.org

February 9, 2006

Dear Representative:

As the Executive Director of the largest animal shelter in the state of Kansas, I am writing to urge your support by making severe acts of animal cruelty a felony. The most compelling reasons for your support are too important to ignore:

1. Enhanced animal cruelty laws should focus on increasing the punishment of individuals engaging in acts of severe animal cruelty. Laws should be specific enough regarding intent so the laws will not unfairly punish individuals engaging in activities where determining the level of abuse relies on personal interpretation.
2. By supporting felony animal cruelty legislation, you allow Kansas to join the ranks of over 41 other states that have enacted legislation making severe animal cruelty a felony.
3. Because offenders are rarely caught and prosecuted a first time - let alone a second - it is critical that new legislation makes severe animal cruelty a felony on the first offense.
4. Research clearly shows that the abuse of animals often escalates into other violent crimes. The enactment of this legislation makes our communities safer by ensuring these individuals are not only punished for their crimes, but also receive much-needed psychological counseling.
5. And, of course, you help protect the pets in our communities by enacting legislation that allows prosecutors to appropriately punish individuals engaging in severe animal abuse and in doing so, decrease the chances of recidivism and continuing violence.

I can assure you that I don't offer my support lightly. Felony convictions come with very serious and long term consequences. However, for all the reasons stated above and because I believe that a felony conviction will be used only to punish the most severe acts of animal abuse, I urge you to support enhanced animal cruelty legislation. I would appreciate hearing how you plan to vote. Thank you for your consideration.

Respectfully,

Kimberly Janzen
Executive Director

Magnum

History

August 1, 2005

- Magnum is found in a Wichita recycling bin.
- He is transported to a Wichita veterinary clinic for immediate care of his injuries.
- Criminal investigation begins.

August 2, 2005 - Today

- Magnum's story is shared with the media.
- Over 74,000 people sign petitions or send letters supporting a Kansas felony animal cruelty law.

August 6, 2005

- Magnum dies as a result of his extensive injuries on the way to a Kansas City speciality clinic.

August 11, 2005

- Hundreds of people attend Magnum's memorial ceremony in Wichita.

February 2, 2006

- Felony animal cruelty legislation proposed.
- Petitions supporting a felony animal cruelty laws collected.



Photo courtesy of The Wichita Eagle





HOUSE JUDICIARY COMMITTEE

TESTIMONY on HB 2725

February 9, 2006

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee today on **HB 2725**, regarding felony animal cruelty legislation.

Research shows a strong correlation between animal abuse in childhood and later personal violence to humans. This research should alert parents, societal leaders, prosecutors, social service workers and judges to the importance of animal cruelty as a potential indicator of disturbed family relationships and future aggressive behavior towards humans. The link between cruelty to animals and violence toward humans is compelling. The FBI has used animal abuse in profiling violent offenders since the early 70's. This abuse indicates an individual has already experienced violence or may be predisposed to committing acts of violence.

Serial killers sit at the extreme end of the violence spectrum and inevitably have histories of practicing abuse on animals prior to killing people. There are many reports of school shooters having also committed acts of animal violence, prior to shooting teachers and children in their schools. The following are examples of surveys that have been done over the years to help show people the link between human and animal violence.

- In a study of men imprisoned for violent crimes versus a group of non-incarcerated, non-violent individuals, 25% of the violent criminals reported "substantial cruelty" towards animals in their childhood, while none of the non-violent offenders reported a history of animal cruelty. Of the violent offenders that were currently incarcerated, almost 71% had committed at least one act of animal cruelty.
- In a study of families being treated for incidents of child abuse, 88% also abused animals. In two-thirds of the cases, it was the abusive parent who had killed or injured the animals to control the child. One-third of the cases showed the children had also started abusing animals. Signs of animal cruelty are often the first indicator that there is a problem in the household and most often the most visible sign of an abusive family.
- 71% of battered women seeking shelter who shared their homes with pets reported that their male partners had threatened to or had, in fact, harmed or killed their pets. Of those women with children, 32% reported that one of their children had also committed acts of animal cruelty.

For the past ten years, I have been the Director of the Lawrence Humane Society in Douglas County Kansas. My staff and I investigate more than 700 cases of cruelty and neglect toward animals. Twenty percent of these calls are cases involving intentional animal cruelty resulting in severe injuries or death. Another twenty percent involve dog fighting.

The Lawrence Humane Society works closely with law enforcement, the Battered Women's Task Force and SRS. Typically, when animals are removed from the home, there are also issues with the care of children and elders. We work together with other agencies to assure all humans and animals in the household are cared for properly. The "Safe Pet" program began as the result of two heinous cases where spouses killed the family pets after the woman and children entered into protective custody.

Our shelter is also involved with training of law enforcement personnel, Women's Transitional Care workers, visiting nurses and utility workers in our county on how to recognize abuse to animals and humans.

For centuries, civilized societies have held the belief that people's treatment of animals is closely associated with their treatment of fellow human beings. The growth of the animal protection movement in the 19th century was part of a larger series of reforms to improve the treatment of children, the poor and the mentally ill. Kansas is one of only a few states without felony anti-cruelty to animals legislation.

I strongly urge this committee to pass felony animal cruelty legislation to help protect not only the animals in our community, but its citizens as well. All of my experience in this field has clearly led me to conclude that the most serious acts of animal cruelty too often lead to more serious acts by those same perpetrators. It is simply not sufficient deterrence or punishment to allow these most serious acts to be classified as only misdemeanors. They must be classified as felonies, with mandatory sentences, to have any meaningful impact.

Thank you for your time and consideration in allowing me to appear today and share my views with respect to this vital issue. If you should have any question, I would be pleased to answer them to the best of my ability.

Presented by:

Midge Grinstead, Executive Director

Lawrence Humane Society, Inc.

Board Member, Humane Kansas Legislative Network

2001-2004 Member Governor's Advisory Panel for Companion Animal Legislation

2000 Graduate Law Enforcement Training Academy Columbia, Missouri

**Kansas House Judiciary Committee Hearing 02/09/06
Testimony in support of an amended HB2725**

Presented today are right at 80,000 signatures (79896 to be exact) from your constituents who seek a change in the animal cruelty law in Kansas.

I was a radio D.J. in Wichita until last month when my position was eliminated due to budget cuts. However during the time I was on the air, little Magnum was found in a dumpster in north Wichita and his story hit the news. I was SO outraged by this heinous act and KNEW that many others were just as devastated as I was. I knew we just needed to band together so our voices could be heard. This is how the Magnum Force of KS was formed.

We began a statewide petition campaign and e-mail campaign to lobby to change the animal cruelty law in our state to be punishable by a felony as it is in 42 other states.

Magnum's abuser has not been found. Under the current Kansas law, if that individual was found, the punishment would be a mere misdemeanor and irrelevant.

Testimony you have heard and will hear today necessitates a change in our current law. A change that will make the punishment fit the crime. Although House Bill 2725 is a change, we feel there are additions necessary... primarily a required psychiatric evaluation of the convicted offenders.

I am here representing these almost 80,000 of your constituents who seek your support in changing this law. As responsible animal guardians, we feel our animals are part of our families and deserve protection from those who inflict intentional harm. Our animals cannot speak for themselves so Magnum Force of KS is here to do so for them.

On behalf of Magnum, Scruffy, Magnum Force of KS, KS K-9 ResQ, and the almost 80,000 Kansas voters who signed our petitions (and their animals), we thank you for your time today and request your support of an amended HB2725.

Cindy "Carson" Sellers
Magnum Force of KS
www.magnumforceofks.org

House Judiciary

Date 2-9-06

Attachment # 8

Proponent HB 2725

My name is Lee Brand, and the founder of a grassroots effort known as Power For Paws. I started this movement after witnessing my neighbor repeatedly punching and kicking his dog. I discovered when charges were filed that Kansas has no felony level provision in its animal cruelty state statute. Thus, Power For Paws was born. We have attracted over 4,600 concerned citizens that call for tougher legislation just since the end of October. We are not affiliated with any animal rights/welfare groups, nor will we be at any point in the future.

We are very pleased that HB 2725 calls for certain crimes against animals to be considered a felony upon the first offense, and wish to express our sincere appreciation to the committee members. We acknowledge the fact that the fine was been deleted in HB 2725, and this is not of grave concern to our supporters. However, the removal of mandatory psychological/anger management counseling is very disconcerting to Power For Paws. This omission from SB 408 in HB 2725 serves to overlook the direct link between animal abuse and violent crimes against people, a fact that is supported by statistics.

I worked in the field of corrections over a span of ten years as a counselor/therapist. I can tell you first hand accounts of animal abuse by inmates that were incarcerated for crimes such as murder, robbery, rape and other sex offenses. Although none were Ted Bundy, Earl Kenneth Shriner, or Jeffrey Dahmer, this should make this direct link even more shocking. The public is unaware of the millions of convicts that have passed through the correctional system over the years that have also committed horrendous crimes against animals. However, I know about the thousands of inmates that I personally counseled that have had a history of animal abuse.

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Date 2-9-06

Attachment # 9

Power For Paws is very concerned about removing the mandatory counseling/anger management as noted in SB 408. This omission prevents the opportunity for early intervention with those that have a proclivity towards violence against people. By retaining this mandatory requirement, the welfare of animals as well as the public is taken into consideration. We respectfully urge the committee members to reconsider their position on this issue.

Power For Paws, Lee Brand

I'm a retired Kansas Animal Health Dept. facility inspector. I have 17 years experience as a veterinary emergency care, 10 years as a bovine embryologist, and almost 13 years as a facility inspector covering 45-51 counties. I've received 160 hours training in investigative school; all kinds of animal cruelty, abuse, and neglect as well as child and elder abuse.

Sept. 2002 - During a compliant inspection of wolf-dogs in Ness County, I looked at the horses nearby. I used my personal camera and film. I could see the body condition that had declined seriously since I had seen them 3 months earlier. The owner admitted having 3 horses die recently. There was no food or water in the corrals. I told her they needed food and water immediately. They drank for long periods and when the owner "pitch-forked" a little hay into the corrals, the horse ran feverishly to eat. The stronger, older ones were able to get to the food. The owner agreed there were now 27 horses with 8 belonging to a man in New York. The 8 horses were removed without health papers the next weekend.

Oct. 3, 2002 - The horses were removed by the Sheriff's Department the same day KAHD removed the wolf-dogs. The Sheriff held the horses approximately six months, sold 2-3 to pay expenses and returned the horses to the owner.

Oct. 2004 - I received a call from the Adams County Attorney at Hastings, Nebraska, after I had been retired 1 1/2 years. They requested I come to testify as the owner of the horses moved from Kansas into Nebraska after getting her horses back. They said the horses were starving and dying. They also wanted the photos brought to court.

November 3, 2004 - Hearing date - As I sat outside the courtroom, a familiar couple entered the courtroom. When I went into the courtroom, I realized it was Carol Lingren and her husband. Carol was taking copious notes on a legal pad, sitting in the back right side of the courtroom. The Lingren's are from Marion, Kansas, and had a similar starving dogs and horses situation with the animals being removed by KAHD a few years earlier.

I was not called to testify, but the subpoena gave them access to the photos I had taken in October, 2002.

The judge admonished the horse owner over and over for not caring for the animals or selling or giving them away. He went on approximately 30 minutes, also saying the Lingren's could have written one letter and all five Lingren's sign it instead of each one writing a letter.

He said if Kansas had taken care of this problem two years earlier, they wouldn't be here doing it all over again. But the judge fined the owner \$26,000 and sentenced her to 60 days in jail. He also told her and her husband to get jobs.

The remarks he made about Kansas law or inactivity embarrassed me greatly. The KAHD has spent a lot of money and time removing animals from such horrible conditions. Kansas needs a good cruelty/abuse law that punishes it as a felony.

If Nebraska can do it, why can't Kansas?

Dorothy McRae
Hays, KS

House Judiciary

Date 2-9-06

Attachment # 10



Since 1894

TESTIMONY

To: House Judiciary Committee
Representative Mike O'Neal, Chair

From: Brent Haden, Assistant Counsel, Kansas Livestock Association

Date: February 9, 2006

Re: HB 2725

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 6,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker production, cattle feeding, grazing land management and diversified farming operations.

Good morning Mr. Chairman and members of the Committee. My name is Brent Haden, and I serve as Assistant Counsel for the Kansas Livestock Association. I appreciate the opportunity to testify this afternoon and discuss KLA's ideas and concerns in the area of animal cruelty law.

KLA members are engaged daily in the care of animals, most prominently cattle, but also a variety of other species ranging from hogs and sheep to horses and stock dogs. As the most active stewards of animal welfare in our society, KLA's rancher and farmer members are strongly opposed to the deliberate imposition of gratuitous pain or injury to any animal. However, KLA also supports the explicit legal protection of all animal husbandry and rodeo practices as essential to the financial and legal security of its members.

With both priorities in mind, KLA is unopposed to elevating deliberate animal cruelty to a felony, so long as the traditional animal husbandry and rodeo exemptions already in the law are kept in place. We are therefore unopposed to HB 2725 in its current form, as the bill currently contains the exemptions for animal husbandry and rodeo practices that are in place under current law. There is, however, one amendment that would give KLA maximum confidence in any move to elevate deliberate animal cruelty to felony status, and KLA respectfully asks the Committee to consider this change.

The change KLA would like to see in HB 2725 would add slaughter to the exemption language currently in place. On page 2, line 3-4, the Committee will not

exemption reading “normal and accepted practices of animal husbandry”. KLA requests that the Committee consider adding the phrase “*including, but not limited to, the slaughter of animals for food or by-products.*” KLA has requested this language because the current animal cruelty statute does not explicitly include an exception for slaughter, and while it may be assumed that slaughter is included under the general animal husbandry exemption, KLA would prefer that an explicit provision be made as long as the rest of the statute is being amended.

To conclude, KLA is committed to the welfare of all animals, and is opposed to the imposition of deliberate and unnecessary pain or injury of any animal. KLA is simultaneously committed to protecting Kansans involved in animal husbandry and rodeo. Therefore, KLA is unopposed to elevating the deliberate killing or injuring of animals to felony status, so long as the exemptions for animal husbandry and rodeo practices currently in the law are left in place. Thank you for your time this afternoon. KLA looks forward to working with the Committee on animal cruelty legislation, and stands ready to assist the Committee in any way it can.

Statement of Sam Mosshart
Kansas Federation of Animal Owners
To The House Judiciary Committee
Representative Michael O'Neal, Chair
Regarding House Bill 2725

Mr. Chairman and distinguished Committee Members, I am Sam Mosshart, a rancher and Kennel operator from Protection, Kansas. I am also the President of the Kansas Federation of Animal Owners (KFED)

KFED supports legislation that strengthens the penalties of persons found guilty of deliberate and malicious acts of cruelty to animals. Our members not only breed and raise domestic pets with love and compassion; they also want only the best for them once they have a new adoptive family.

Having said this, we have major concerns with the language or lack of language in this bill. We feel that our concerns can be alleviated by the insertion of one point of exception. I will provide that language in a moment.

The bill grants the exception of "normal and accepted practices of animal husbandry" but this is not generally recognized to include pet animals such as dogs and cats. The United States Department of Agriculture Animal and Plant Health Inspection Service (APHIS) administers the regulations pursuant to the Animal Welfare Act, the act that regulates the care of pet animals through licensing and inspections of pet breeders. These USDA guidelines are adopted by reference in Kansas so there is no difference between USDA standards of care and the State standards of care.

House Judiciary

Date 2-9-06
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We are concerned that without the “exception” certain standard practices could be open to individual interpretation of animal cruelty. No matter the outcome, the accused will bear the economic loss and the stigma attached. Our members are not large corporations that can fend off unscrupulous and unwarranted attacks. Most are very small “mom and pop” operations where the breeding stock are also the family pets. We all want stiffer penalties for deliberate abuse to animals but we need protection from unjust attacks on pet breeders.

If the following text: ***accepted practices of animal husbandry for domestic pet animals pursuant to regulations of the Animal Welfare Act and administered by the United States Department of Agriculture Animal and Plant Health Inspection Service*** would be inserted under (4) (b) “The provisions of this section shall not apply to”, we could accept this bill.

We also believe that amendments are need to the current law which would provide rights for the accused. We would suggest the following amendments:

1. Allow the accused to have their own veterinarian give each animal an evaluation **before** the animals are seized and to take such samples as might support this evaluation.
2. Allow the accused to take their own pictures and/or video and any other evidence or samples (stool, blood and etc.) deemed necessary for their defense.
3. Get an IRON CLAD definition, describing an animal to be seized. (Example: a. it must be so many pounds under weight and b. they must have knowledge of its being without shelter for a certain period of time.) No estimations or opinions, just factual evidence. Any accusations must be supported with tests. Blood tests must be conducted in either an independent laboratory and/or the accused’s laboratory to determine malnutrition, and etc.
4. Must be allowed a FULL trial at the District Court level in any administrative procedure, with review of the evidence, not just the agency findings.

5. The seizing agency must keep complete records of ALL animals disposed of and their final resting place, disclosed to the public (for at least seven years and then archived). If the accused is found innocent, the seizing agency must pay all costs including attorney's fees, value of animals and any losses resulting from the withholding of your animals during the process.
6. The Pet Act must be under the Criminal Statutes as to preserving evidence (example – They can not take animals and destroy them before the accused person has the opportunity to gather evidence to defend themselves).
7. Any animal owner whose animal was being housed at another person's facility when it was seized, i.e., being boarded, must have their animal returned to them.
8. They must provide you with a list of your rights, BEFORE they inspect you whether you are licensed or not. (Gette v. I.N.S. and Goldberg)
9. They **must** send you certified letter of their Notice of Intent to Inspect, **BEFORE** inspecting any alleged unlicensed facility.
10. If the animals are breeding animals, registered, show animals, or have value, they **MUST** be sold at public auction, not killed, neutered or placed, and the accused must be given certified notice of said sale.
11. KAHD must supply the Legislature with an annual report containing an itemized list of the following:
 - a) Consent Agreements
 - b) Notices of Intent to Inspect
 - c) Orders to Inspect
 - d) Administrative Warrants/Inspection Warrants
 - e) Number of Animals seized
 - f) Individual photo and description of each animal seized
 - g) Facts and test detailing the reason each individual animal was seized
 - h) Must do blood tests (by independent laboratory and/or accused's laboratory) to determine malnutrition
 - i) Final disposition of each individual animal seized

12. The seizing agency must maintain itemized receipts for all expenses of animals seized, with further itemized by individual animal. These must be made available to the public and the accused before any action is taken by the agency.

Thank you for this opportunity to express my concerns on this important legislation.

1 ness days following the receipt of any such animal at such society, shelter
2 or pound;

3 (6) with respect to farm animals, normal or accepted practices of
4 animal husbandry;

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

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

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

14 **(10) accepted practices of animal husbandry for domestic pet animals pursuant to**
15 **regulations of the Animal Welfare Act and administered by the United States**
16 **Department of Agriculture Animal and Plant Health Inspection Service**

17 (c) As used in this section, "equine" means a horse, pony, mule,
18 jenny, donkey or hinny.

19 (d) (1) *Cruelty to animals as described in subsection (a) (1) is a non-*
20 *person felony. Upon conviction of this paragraph, a person shall be sen-*
21 *tenced to not less than 30 days nor more than one year's imprisonment.*

22 (2) *Cruelty to animals as described in subsection (a) (2), (a) (3) or (a)*

23 *(4) is a class A nonperson misdemeanor.*

24 Sec. 2. K.S.A. 2005 Supp. 21-4704 is hereby amended to read as
25 follows: 21-4704. (a) For purposes of sentencing, the following sentencing
26 guidelines grid for nondrug crimes shall be applied in felony cases for
27 crimes committed on or after July 1, 1993: