

HOUSE BILL No. 2364

By Committee on Judiciary

2-11

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to crimes against public morals; cruelty to animals; adding a definition
3 of torturing; amending K.S.A. 2020 Supp. 21-6412 and repealing the
4 existing section.

5
6 WHEREAS, The amendments made to this section by this act shall be
7 known as Bowie's law.

8 Now, therefore:

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2020 Supp. 21-6412 is hereby amended to read as
11 follows: 21-6412. (a) Cruelty to animals is:

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

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

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

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

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

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

26 (b) Cruelty to animals as defined in:

27 (1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction
28 of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than
29 30 days or more than one year's imprisonment and be fined not less than
30 \$500 nor more than \$5,000. The person convicted shall not be eligible for
31 release on probation, suspension or reduction of sentence or parole until
32 the person has served the minimum mandatory sentence as provided
33 herein. During the mandatory 30 days imprisonment, such offender shall
34 have a psychological evaluation prepared for the court to assist the court in
35 determining conditions of probation. Such conditions shall include, but not
36 be limited to, the completion of an anger management program; and

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

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

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

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

13 (1) Normal or accepted veterinary practices;

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

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

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

20 (5) the humane killing of an animal that is diseased or disabled
 21 beyond recovery for any useful purpose, or the humane killing of animals
 22 for population control, by the owner thereof or the agent of such owner
 23 residing outside of a city or the owner thereof within a city if no animal
 24 shelter or licensed veterinarian is within the city, or by a licensed
 25 veterinarian at the request of the owner thereof, or by any officer or agent
 26 of an animal shelter, a local or state health officer or a licensed
 27 veterinarian three business days following the receipt of any such animal
 28 at such shelter;

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

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

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

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

43 (10) normal or accepted practices of pest control, as defined in K.S.A.

1 2-2438a(x), and amendments thereto; or

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

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

9 (e) Any public health officer, law enforcement officer, licensed
10 veterinarian or officer or agent of any animal shelter or other appropriate
11 facility may take into custody any animal, upon either private or public
12 property, that clearly shows evidence of cruelty to animals. Such officer,
13 agent or veterinarian may inspect, care for or treat such animal or place
14 such animal in the care of an animal shelter or licensed veterinarian for
15 treatment, boarding or other care or, if an officer of such animal shelter or
16 such veterinarian determines that the animal appears to be diseased or
17 disabled beyond recovery for any useful purpose, for humane killing. The
18 owner or custodian, if known or reasonably ascertainable, shall be notified
19 in writing. If the owner or custodian is charged with a violation of this
20 section, the law enforcement agency, district attorney's office, county
21 prosecutor, veterinarian or animal shelter may petition the district court in
22 the county in which the animal was taken into custody to transfer
23 ownership of the animal at any time after 21 days after the owner or
24 custodian is notified, unless the owner or custodian of the animal files and
25 maintains a renewable cash or performance bond with the county clerk of
26 the county in which the animal was taken into custody in an amount equal
27 to not less than the cost of care and treatment of the animal for 30 days.
28 Such cash or performance bond shall be maintained and renewed every 30
29 days as necessary to cover the cost of care and treatment of such animal
30 until disposition of the animal by the court. If the owner or custodian is not
31 known or reasonably ascertainable after 21 days after the animal is taken
32 into custody, the law enforcement agency, district attorney's office, county
33 prosecutor, veterinarian or animal shelter may petition the district court in
34 the county in which the animal was taken into custody to transfer
35 ownership of the animal. Upon receiving such petition, the court shall
36 determine whether the animal may be transferred.

37 (f) The owner or custodian of an animal transferred pursuant to
38 subsection (e) shall not be entitled to recover damages for the transfer of
39 such animal unless the owner proves that such transfer was unwarranted.

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

1 the owner or custodian is adjudicated guilty of such crime. Any costs
2 collected by the court or through the cash or performance bond described
3 in subsection (e) shall be transferred to the entity responsible for paying
4 the cost of the care, treatment or boarding of the animal.

5 (h) If a person is adjudicated guilty of the crime of cruelty to animals,
6 such animal shall not be returned to or remain with such person. Such
7 animal may be turned over to an animal shelter or licensed veterinarian for
8 sale or other disposition.

9 (i) As used in this section:

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

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

13 (3) "maliciously" means a state of mind characterized by actual evil-
14 mindedness or specific intent to do a harmful act without a reasonable
15 justification or excuse; *and*

16 (4) *"torturing" includes, but is not limited to, confining or restricting*
17 *an animal in a way that is likely to cause death.*

18 Sec. 2. K.S.A. 2020 Supp. 21-6412 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after its
20 publication in the statute book.