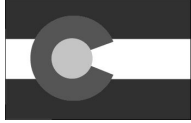


Ballot Initiative 2021-2022



Colorado State Ballot Initiative Protect **Animals** from **Unnecessary Suffering** and **Exploitation**

Be it enacted by the people of the state of Colorado:

Section 1. C.R.S. 18-9-201, Definitions, is amended* to read:

As used in this part 2, unless the context otherwise requires:

(1) "Abandon" means the leaving of an animal without adequate provisions for the animal's proper care by its owner, the person responsible for the animal's care or custody, or any other person having possession of such animal.

(2) "Animal" means any living ~~dumb~~ NON-HUMAN creature, including, BUT NOT LIMITED TO, DOGS, CATS, HORSES, LIVESTOCK ~~a certified police working dog, a police working horse,~~ and a service animal as those terms are defined, respectively, in subsections ~~(2.3)~~ (2.9), ~~(2.4)~~, and (4.7) of this section.

(2.3) "Certified police working dog" means a dog that has current certification from a state or national agency or an association that certifies police working dogs, and that is part of a working law enforcement team.

(2.4) "Police working horse" means a horse that is currently working full time or part time as part of a working law enforcement team and has met the standards of the law enforcement team to work in such capacity.

(2.5) "Disposal" or "disposition" means adoption of an animal; return of an animal to the owner; sale of an animal under section 18-9-202.5 (4); release of an animal to a rescue group licensed pursuant to article 80 of title 35, C.R.S.; release of an animal to another pet animal facility licensed pursuant to article 80 of title 35, C.R.S.; or release of an animal to a rehabilitator licensed by the parks and wildlife division or the United States fish and wildlife service; or euthanasia.

(2.7) "Euthanasia" means to produce a humane death by techniques accepted by the American veterinary medical association.

*new text in capitalized letters and text that is being eliminated in strikeout type

(2.9) "Livestock" means bovine, camelids, caprine, equine, ovine, porcine, FISH and poultry.

(3) "Mistreatment" means every act or omission that causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

(4) "Neglect" means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal's health and well-being consistent with the species, breed, and type of animal.

(4.5) "Serious physical harm", as used in section 18-9-202, means any of the following:

(a) Any physical harm that carries a substantial risk of death;

(b) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or

(c) Any physical harm that causes acute pain of a duration that results in substantial suffering.

(4.7) "Service animal" means any animal, the services of which are used to aid the performance of official duties by a fire department, fire protection district, or governmental search and rescue agency. Unless otherwise specified, "service animal" does not include a "certified police working dog" or a "police working horse" as defined in subsections (2.3) and (2.4) of this section.

(5) "Sexual act with an animal" means an act between a person and an animal involving ~~direct physical contact between the genitals of one and the mouth, anus, or genitals of the other~~ EITHER THE MOUTH, ANUS, OR GENITALS OF THE HUMAN AND THE MOUTH, ANUS, OR GENITALS OF THE ANIMAL, OR AN INANIMATE OBJECT OF THE HUMAN AND THE ANUS OR GENITALS OF THE ANIMAL. A sexual act with an animal may be proven without allegation or proof of penetration. Nothing in this subsection (5) shall be construed to prohibit ANY PERSON FROM DISPENSING CARE TO AN ANIMAL IN THE INTEREST OF IMPROVING THAT ANIMAL'S HEALTH ~~accepted animal husbandry practices~~.

(6) "NATURAL LIFESPAN" FOR THE FOLLOWING SPECIES SHALL BE EXPLICITLY DEFINED HERE BASED ON STATISTICAL ESTIMATES UNDER HUMANE CONDITIONS: COWS LIVE TO 20 YEARS, CHICKENS LIVE TO 8 YEARS, TURKEYS LIVE TO 10 YEARS, DUCKS LIVE TO AT LEAST 6 YEARS, PIGS LIVE TO 15 YEARS, SHEEP LIVE TO 15 YEARS, RABBITS LIVE TO AT LEAST 6 YEARS.

Section 2. C.R.S. 18-9-201.5, Scope of part 2, is amended* to read:

(1) Nothing in this part 2 shall affect ~~accepted animal husbandry practices utilized by any person in the care of companion or livestock animals or in the extermination of undesirable pests as defined in articles 7 AND 10, and 43 of title 35, C.R.S.~~

(2) In case of any conflict between this part 2 or section 35-43-126, C.R.S., and the wildlife statutes of the state, said wildlife statutes shall control.

*new text in capitalized letters and text that is being eliminated in strikeout type

(3) Nothing in this part 2 shall affect animal care otherwise authorized by law.

(4) Nothing in this part 2 shall affect facilities licensed under the provisions of the federal "Animal Welfare Act of 1970", 7 U.S.C. sec. 2131 et seq., as amended.

Section 3. C.R.S. 18-9-202, Cruelty to animals - aggravated cruelty to animals - service animals - short title, is amended* to read:

(1) (a) A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, engages in a sexual act with an animal, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.

(b) Any person who intentionally abandons AN animal ~~a dog or cat~~ commits the offense of cruelty to animals.

(1.5) (a) A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates, or needlessly kills an animal.

(c) A person commits cruelty to a service animal or a certified police working dog or police working horse if he or she violates the provisions of subsection (1) of this section with respect to a service animal, certified police working dog, or police working horse, as those terms are defined in section 18-9-201 (2.3), (2.4), and (4.7), whether the service animal, certified police working dog, or police working horse is on duty or not on duty.

(1.6) Repealed.

(1.8) A peace officer having authority to act under this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (1) or (1.5) of this section or is a victim of a violation of section 18-9-204 and as a result of the violation is endangered if it remains with the owner or custodian. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this subsection (1.8) is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(1.9) ANY PERSON WHO SLAUGHTERS LIVESTOCK IN ACCORDANCE WITH ACCEPTED AGRICULTURAL ANIMAL HUSBANDRY PRACTICES DOES NOT VIOLATE THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION SO LONG AS THE ANIMAL HAS LIVED ONE QUARTER OF THEIR NATURAL LIFESPAN BASED ON SPECIES, BREED, AND

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TYPE OF ANIMAL AND THE ANIMAL IS SLAUGHTERED IN SUCH A WAY THAT THE ANIMAL DOES NOT NEEDLESSLY SUFFER.

(2) (a) Except as otherwise provided in subsection (2)(b) of this section, cruelty to animals, or cruelty to a service animal or certified police working dog or police working horse pursuant to subsection (1.5)(c) of this section, is a class 1 misdemeanor.

(a.5)

(I) Repealed.

(II) In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program, a mental health treatment program, or any other appropriate treatment program designed to address the underlying causative factors for the violation.

(III) The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. If the violation is a felony offense in violation of subsection (1.5) of this section, a felony offense in violation of subsection (2)(b)(II) of this section, or any other violation of this section demonstrating knowing torture or torment of an animal that needlessly injured, mutilated, or killed the animal, the court shall require a comprehensive evaluation to help determine the causative factors. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for a public defender, then the cost will be paid by the judicial district. If the evaluation results in a recommendation of treatment and if the court so finds, the person must be ordered to complete, as a condition of any sentence to probation or a deferred judgment or sentence, an anger management treatment program, a mental health treatment program, or any other appropriate treatment program designed to address the underlying causative factors for the violation.

(IV) Upon successful completion of an anger management treatment program, a mental health treatment program, or any other appropriate treatment program, the court may suspend any fine imposed; except for a five-hundred-dollar mandatory minimum fine which shall be imposed at the time of sentencing.

(V) In addition to any other sentence imposed upon a person for a violation of any criminal law under this title 18, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, or cruelty to a service animal or a certified police working dog or police working horse pursuant to subsection (1.5)(c) of this section, is required to pay a mandatory minimum fine of one thousand dollars and is required to complete an anger management treatment program or any other appropriate treatment program.

(V.5) In addition to any other sentence imposed for a felony conviction pursuant to this section, the court shall enter an order prohibiting the defendant from owning, possessing, or caring for a pet animal as defined in section 35-80-102

(10) as a condition of the sentence for a period of three to five years, unless the defendant's treatment provider makes a specific recommendation not to impose the ban and the court agrees with the recommendation.

(VI) Nothing in this paragraph (a.5) shall preclude the court from ordering treatment in any appropriate case.

(VII) This subsection (2)(a.5) does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products ~~when~~ **REGARDLESS OF WHETHER** the treatment is in accordance with accepted agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to article 32 of title 44, ~~the treatment of animals involved in research if the research facility is operating under rules set forth by the state or federal government,~~ the treatment of animals involved in rodeos, **OR** the treatment of dogs used for legal hunting activities. ~~, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.~~

(VIII) THIS SUBSECTION (2)(a.5) DOES NOT APPLY TO THE TREATMENT OF ANY ANIMAL INVOLVED IN RESEARCH IF THE RESEARCH FACILITY IS OPERATING UNDER RULES SET FORTH BY THE STATE OR FEDERAL GOVERNMENT, WILDLIFE NUISANCES, OR TO STATUTES REGULATING ACTIVITIES CONCERNING WILDLIFE AND PREDATOR CONTROL IN THE STATE, INCLUDING TRAPPING.

(b)

(I) A second or subsequent conviction under the provisions of paragraph (a) of subsection (1) of this section is a class 6 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

(II) In any case where the court sentences a person convicted of a class 6 felony under the provisions of this paragraph (b) to probation, the court shall, in addition to any other condition of probation imposed, order that:

(A) The offender, pursuant to section 18-1.3-202 (1), be committed to the county jail for ninety days; or

(B) The offender, pursuant to section 18-1.3-105 (3), be subject to home detention for no fewer than ninety days.

(III) In any case where an offender is committed to the county jail or placed in home detention pursuant to subparagraph (II) of this paragraph (b), the court shall enter judgment against the offender for all costs assessed pursuant to section 18-1.3-701, including, but not limited to, the cost of care.

(c) Aggravated cruelty to animals is a class 6 felony; except that a second or subsequent conviction for the offense of aggravated cruelty to animals is a class 5 felony. A plea of nolo contendere accepted by the court shall be considered a conviction for purposes of this section.

(d)

(I) If a person is convicted of cruelty to a service animal pursuant to paragraph (c) of subsection (1.5) of this section, the court shall order him or her to make restitution to the agency or individual owning the service animal for any veterinary bills and replacement costs of the service animal if it is disabled or killed as a result of the cruelty to animals incident.

(II) If a person is convicted of cruelty to a certified police working dog or police working horse pursuant to subsection (1.5)(c) of this section, the court shall order him or her to make restitution to the agency or individual owning the certified police working dog or police working horse for all expenses, including any immediate and ongoing veterinary expenses related to the incident, and replacement costs for the certified police working dog or police working horse if it is permanently disabled or killed as a result of the cruelty to animals incident. If the court finds that the person who is convicted of cruelty to a certified police working dog or police working horse pursuant to subsection (1.5)(c) of this section did so with malicious intent, the person shall additionally make restitution to the agency or individual owning the certified police working dog or police working horse for all training and certification costs related to the certified police working dog or police working horse.

(2.5) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found ~~running, worrying, or injuring~~ sheep, cattle, or other livestock, **BUT NOT IF THE DOG WAS FOUND RUNNING, WORRYING, OR OTHERWISE HARASSING THE ANIMALS.**

(3) Nothing in this part 2 modifies in any manner the authority of the parks and wildlife commission, as established in title 33, C.R.S., or prohibits any conduct authorized or permitted under title 33, C.R.S.

(4) The short title of this section is "~~Punky's~~ **WILBUR's Law**".