A BILL FOR AN ACT

CONCERNING SPECIFICATIONS FOR THE OFFENSE OF AGGRAVATED CRUELTY TO A LAW ENFORCEMENT ANIMAL.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

Under current law, aggravated cruelty to animals is a class 4 felony. The bill specifies that a person commits the offense of aggravated cruelty to animals if the person knowingly or recklessly kills or causes serious physical harm resulting in the death of a law enforcement animal or causes serious physical harm to a degree that the law enforcement animal must be decommissioned from active duty for at least 3 months.
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 18-9-201, add (2.8) as follows:

18-9-201. Definitions. As used in this part 2, unless the context otherwise requires:

(2.8) "LAW ENFORCEMENT ANIMAL" MEANS A CERTIFIED WORKING DOG OR A POLICE WORKING HORSE.

SECTION 2. In Colorado Revised Statutes, 18-9-202, amend (1.5), (1.8), (2)(a), (2)(a.5)(V)(B), (2)(c), (2)(d)(II), and (2.5) as follows:

18-9-202. Cruelty and aggravated cruelty to animals, service animals, and law enforcement animals - penalties - short title - definition. (1.5) (a) A person commits cruelty to animals if the person recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if the person:

(I) Knowingly tortures, needlessly mutilates, or needlessly kills an animal; OR

(II) KNOWINGLY KILLS OR CAUSES SERIOUS BODILY INJURY THAT RESULTS IN THE DEATH OF A LAW ENFORCEMENT ANIMAL, WHETHER THE LAW ENFORCEMENT ANIMAL IS ON DUTY OR NOT ON DUTY. FOR THE PURPOSES OF THIS SUBSECTION (1.5)(b)(II), "SERIOUS BODILY INJURY" MEANS BODILY INJURY THAT INVOLVES A SUBSTANTIAL RISK OF DEATH; A SUBSTANTIAL RISK OF PERMANENT DISFIGUREMENT; A SUBSTANTIAL RISK OF PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF ANY PART OR ORGAN OF THE BODY; BREAKS; FRACTURES; A PENETRATING WOUND FROM
A KNIFE OR A PENETRATING GUNSHOT WOUND; OR BURNS OF THE SECOND
OR THIRD DEGREE.

(c) A person commits cruelty to a service animal or a certified
police working dog or police working horse if he or she LAW
ENFORCEMENT ANIMAL IF THE PERSON violates the provisions of
subsection (1) of this section with respect to a service animal certified
police working dog, or police working horse
OR A LAW ENFORCEMENT
ANIMAL, 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, OR LAW ENFORCEMENT ANIMAL is on duty or not on duty.

(1.8) (a) A peace officer having authority to act under PURSUANT
to 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.

(b) (I) A LICENSED VETERINARIAN IS IMMUNE FROM CRIMINAL
LIABILITY AND IS NOT IN VIOLATION OF THE PROVISIONS OF SECTION
(1.5)(b)(II) OF THIS SECTION IF:

(A) THE LICENSED VETERINARIAN PROVIDES VETERINARY
TREATMENT FOR AN INJURED LAW ENFORCEMENT ANIMAL; OR

(B) THE LICENSED VETERINARIAN EUTHANIZES THE LAW
ENFORCEMENT ANIMAL AFTER DETERMINING THAT THE LAW
ENFORCEMENT ANIMAL, DUE TO A CRITICAL INJURY, IS EXPERIENCING EXTREME PAIN OR SUFFERING, OR IS SEVERELY INJURED PAST RECOVERY, SEVERELY DISABLED PAST RECOVERY, OR SEVERELY DISEASED PAST RECOVERY.

(II) A PERSON WHO OWNS OR WHO IS CHARGED WITH THE CARE OF A LAW ENFORCEMENT ANIMAL IS IMMUNE FROM CRIMINAL LIABILITY AND IS NOT IN VIOLATION OF THE PROVISIONS OF SECTION (1.5)(b)(II) OF THIS SECTION IF SUCH PERSON IS ABLE TO REASONABLY DETERMINE THAT THE LAW ENFORCEMENT ANIMAL, DUE TO A CRITICAL INJURY, IS EXPERIENCING EXTREME PAIN OR SUFFERING, OR IS SEVERELY INJURED PAST RECOVERY.

(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 OR A LAW ENFORCEMENT ANIMAL pursuant to subsection (1.5)(c) of this section, is a class 1 misdemeanor.

(a.5) (V) (B) In addition to any other sentence imposed upon a person for a violation of any criminal law under PURSUANT TO this title any A 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 cruelty to a service animal certified police working dog, or police working horse OR A LAW ENFORCEMENT ANIMAL pursuant to subsection (1.5)(c)(I) SUBSECTION (1.5)(c) of this section or aggravated cruelty to a service animal certified police working dog, or police working horse OR AGGRAVATED CRUELTY TO A LAW ENFORCEMENT ANIMAL pursuant to subsection (1.5)(c)(II) SUBSECTION (1.5)(b) of this section, is required to pay a mandatory minimum fine of two thousand dollars and is required to complete an anger management treatment
program or any other appropriate treatment program.

(c) Aggravated cruelty to animals, AS DESCRIBED IN SUBSECTION (1.5)(b) OF THIS SECTION, is a class 4 felony.

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

(2.5) (a) It shall be an affirmative defense to a charge brought under PURSUANT TO this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.
(b) A person is justified in using physical force upon a law enforcement animal to defend their own person or a third person when the person reasonably believes that a law enforcement animal is an application of unreasonable or excessive force, in violation of section 18-1-707. This is an affirmative defense to a charge brought pursuant to this section that involves injury or death to a law enforcement animal.

SECTION 3. In Colorado Revised Statutes, 18-8-802, amend (1)(a) and (1.5)(a) as follows:

18-8-802. Duty of a peace officer to report use of force by peace officers or law enforcement animals - duty to intervene.

(1) (a) A peace officer who, in pursuance of such officer's law enforcement duties, witnesses another peace officer, including a peace officer who is the handler of a law enforcement animal, in pursuance of such other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd control or riot control, use physical force or allow the peace officer's law enforcement animal to use physical force which exceeds the degree of physical force permitted pursuant to section 18-1-707 must report such use of force to such officer's or handler's immediate supervisor.

(1.5)(a) A peace officer, as defined in section 24-31-901 (3), who is on-duty shall intervene to prevent or stop another peace officer, including a peace officer who is the handler of a law enforcement animal, from using physical force that exceeds the degree of force permitted, if any, by section 18-1-707 in pursuance of the other...
peace officer's law enforcement duties in carrying out an arrest of any
person, placing any person under detention, taking any person into
custody, booking any person, or in the process of crowd control or riot
control, without regard for chain of command.

SECTION 4. Safety clause. The general assembly finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, or safety or for appropriations for
the support and maintenance of the departments of the state and state
institutions.