

CHAPTER 267

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 97-1181

BY REPRESENTATIVES Leyba, S. Johnson, Clarke, Epps, Gordon, Grossman, Hagedorn, Kreutz, Nichol, Saliman, Snyder, Tate, Tupa, Udall, Veiga, and S. Williams;
also SENATORS Perlmutter, Linkhart, Rupert, and Weddig.

AN ACT

CONCERNING PREVENTION OF CRUELTY TO ANIMALS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 2 of article 9 of title 18, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

18-9-201.7. Animal cruelty prevention fund - control of fund - repeal.

(1) THERE IS HEREBY ESTABLISHED IN THE OFFICE OF THE STATE TREASURER THE ANIMAL CRUELTY PREVENTION FUND, REFERRED TO IN THIS PART 2 AS THE "FUND". THE FUND SHALL CONSIST OF ALL MONEYS PAID AS A SURCHARGE AS PROVIDED IN SECTION 18-9-202 (2) (a.5) (I).

(2) ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ALL MONEYS IN THE FUND SHALL BE SUBJECT TO APPROPRIATION BY THE GENERAL ASSEMBLY TO CARRY OUT THE PURPOSES OF SUBSECTION (4) OF THIS SECTION.

(3) AT THE CONCLUSION OF EACH FISCAL YEAR, ANY UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND SHALL REVERT TO THE ANIMAL PROTECTION FUND, CREATED IN SECTION 35-42-113, C.R.S.

(4) NOT MORE THAN FIVE PERCENT OF THE AGGREGATE AMOUNT OF THE MONEYS IN THE FUND SHALL BE USED TO ADMINISTER THE FUND. THE REMAINING MONEYS IN

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

THE FUND SHALL BE USED BY THE DEPARTMENT OF AGRICULTURE TO ASSIST WITH COSTS ASSOCIATED WITH THE CARE, TREATMENT, OR SHELTER OF ANY ANIMAL THAT IS THE SUBJECT OF CRUELTY, AND BY THE JUDICIAL BRANCH TO PAY THE COSTS OF COURT-ORDERED ANGER MANAGEMENT TREATMENT PROGRAMS AND OTHER PSYCHOLOGICAL EVALUATIONS AND COUNSELING FOR INDIGENT PERSONS CONVICTED OR ADJUDICATED AS JUVENILE DELINQUENTS FOR ACTS OF CRUELTY TO ANIMALS. NO MONEYS FROM THE FUND SHALL BE PAID TO AN OFFENDER.

(5) THE MONEYS IN THE FUND SHALL BE EQUALLY DIVIDED BETWEEN THE CARE, TREATMENT, AND SHELTER OF ANIMALS AND THE EVALUATION AND TREATMENT FOR OFFENDERS.

(6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2001.

SECTION 2. 18-9-202 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18-9-202. Cruelty to animals - neglect of animals - offenses - repeal.

(2) (a.5) (I) (A) IN ADDITION TO ANY SENTENCE IMPOSED UPON A PERSON FOR VIOLATION OF ANY CRIMINAL LAW UNDER THIS TITLE, ANY PERSON CONVICTED OF COMMITTING CRUELTY TO ANIMALS PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE UNDERLINING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT TO INCLUDE THE KNOWING OR INTENTIONAL TORTURE OR TORMENT OF AN ANIMAL WHICH NEEDLESSLY INJURES, MUTILATES, OR KILLS AN ANIMAL SHALL PAY A SURCHARGE OF UP TO FOUR HUNDRED DOLLARS TO THE CLERK OF THE COURT IN THE COUNTY IN WHICH THE CONVICTION OCCURS OR IN WHICH A DEFERRED SENTENCE IS ENTERED. EACH CLERK SHALL TRANSMIT THE MONEYS TO THE COURT ADMINISTRATOR OF THE JUDICIAL DISTRICT IN WHICH THE OFFENSE OCCURRED FOR CREDIT TO THE FUND.

(B) THIS SUBPARAGRAPH (I) IS REPEALED, EFFECTIVE JULY 1, 2001.

(II) IN ADDITION TO ANY SENTENCE IMPOSED UPON A PERSON FOR VIOLATION OF ANY CRIMINAL LAW UNDER THIS TITLE, ANY PERSON CONVICTED OF COMMITTING CRUELTY TO ANIMALS PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE UNDERLINING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT TO INCLUDE THE KNOWING OR INTENTIONAL TORTURE OR TORMENT OF AN ANIMAL WHICH NEEDLESSLY INJURES, MUTILATES, OR KILLS AN ANIMAL, MAY BE ORDERED TO COMPLETE AN ANGER MANAGEMENT TREATMENT PROGRAM OR ANY OTHER APPROPRIATE TREATMENT PROGRAM.

(III) THE COURT MAY ORDER AN EVALUATION TO BE CONDUCTED PRIOR TO SENTENCING IF AN EVALUATION WOULD ASSIST THE COURT IN DETERMINING AN APPROPRIATE SENTENCE. 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 SHALL BE ORDERED TO COMPLETE AN ANGER MANAGEMENT TREATMENT PROGRAM OR ANY OTHER TREATMENT PROGRAM THAT THE COURT MAY DEEM APPROPRIATE.

(IV) UPON SUCCESSFUL COMPLETION OF AN ANGER MANAGEMENT TREATMENT

PROGRAM OR ANY OTHER TREATMENT PROGRAM DEEMED APPROPRIATE BY THE COURT, 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, 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, SHALL BE REQUIRED TO PAY A MANDATORY MINIMUM FINE OF ONE THOUSAND DOLLARS AND SHALL BE REQUIRED TO COMPLETE AN ANGER MANAGEMENT TREATMENT PROGRAM OR ANY OTHER APPROPRIATE TREATMENT PROGRAM.

(VI) NOTHING IN THIS PARAGRAPH (a.5) SHALL PRECLUDE THE COURT FROM ORDERING TREATMENT IN ANY APPROPRIATE CASE.

(VII) THIS PARAGRAPH (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 SUCH TREATMENT IS IN ACCORDANCE WITH ACCEPTED AGRICULTURAL ANIMAL HUSBANDRY PRACTICES, THE TREATMENT OF ANIMALS INVOLVED IN ACTIVITIES REGULATED PURSUANT TO ARTICLE 60 OF TITLE 12, C.R.S., THE TREATMENT OF ANIMALS INVOLVED IN RESEARCH IF SUCH RESEARCH FACILITY IS OPERATING UNDER RULES AND REGULATIONS SET FORTH BY THE STATE OR FEDERAL GOVERNMENT, THE TREATMENT OF ANIMALS INVOLVED IN RODEOS, THE TREATMENT OF DOGS USED FOR LEGAL HUNTING ACTIVITIES, OR TO STATUTES REGULATING ACTIVITIES CONCERNING WILDLIFE AND PREDATOR CONTROL IN THE STATE, INCLUDING TRAPPING.

SECTION 3. 19-2-907 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

19-2-907. Sentencing schedule - options. (1) Upon completion of the sentencing hearing, pursuant to section 19-2-906, the court shall enter a decree of sentence or commitment imposing any of the following sentences or combination of sentences, as appropriate:

(k) ORDERING THE JUVENILE TO COMPLETE AN ANGER MANAGEMENT TREATMENT PROGRAM OR ANY OTHER APPROPRIATE TREATMENT PROGRAM, AS PROVIDED IN SECTION 19-2-918.5.

SECTION 4. Part 9 of article 2 of title 19, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

19-2-918.5. Sentencing - animal cruelty - anger management treatment.

(1) IN ADDITION TO ANY SENTENCE IMPOSED PURSUANT TO THIS SECTION, ANY JUVENILE WHO HAS BEEN ADJUDICATED A JUVENILE DELINQUENT FOR THE COMMISSION OF CRUELTY TO ANIMALS, AS DESCRIBED IN SECTION 18-9-202 (1) (a), C.R.S., IN WHICH THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT TO INCLUDE THE KNOWING OR INTENTIONAL TORTURE OR TORMENT OF AN ANIMAL WHICH NEEDLESSLY INJURES, MUTILATES, OR KILLS AN ANIMAL, MAY BE

ORDERED TO COMPLETE AN ANGER MANAGEMENT TREATMENT PROGRAM OR ANY OTHER TREATMENT PROGRAM DEEMED APPROPRIATE BY THE COURT.

(2) THE COURT MAY ORDER AN EVALUATION TO BE CONDUCTED PRIOR TO DISPOSITION IF AN EVALUATION WOULD ASSIST THE COURT IN DETERMINING AN APPROPRIATE DISPOSITION. THE PARENTS OR LEGAL GUARDIAN OF THE JUVENILE ORDERED TO UNDERGO AN EVALUATION SHALL BE REQUIRED TO PAY THE COST OF THE EVALUATION. IF THE EVALUATION RESULTS IN A RECOMMENDATION OF TREATMENT AND IF THE COURT SO FINDS, THE JUVENILE SHALL BE ORDERED TO COMPLETE AN ANGER MANAGEMENT TREATMENT PROGRAM OR ANY OTHER TREATMENT PROGRAM DEEMED APPROPRIATE BY THE COURT.

(3) THE DISPOSITION FOR ANY JUVENILE WHO HAS BEEN ADJUDICATED A JUVENILE DELINQUENT A SECOND OR SUBSEQUENT TIME, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT TO INCLUDE AN ACT OF CRUELTY TO ANIMALS, AS DESCRIBED IN SECTION 18-9-202 (1) (a), C.R.S., SHALL INCLUDE THE COMPLETION OF AN ANGER MANAGEMENT TREATMENT PROGRAM OR ANY OTHER TREATMENT PROGRAM DEEMED APPROPRIATE BY THE COURT.

(4) NOTHING IN THIS SECTION SHALL PRECLUDE THE COURT FROM ORDERING TREATMENT IN ANY APPROPRIATE CASE.

(5) THIS SECTION 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 SUCH TREATMENT IS IN ACCORDANCE WITH ACCEPTED ANIMAL HUSBANDRY PRACTICES, THE TREATMENT OF ANIMALS INVOLVED IN ACTIVITIES REGULATED PURSUANT TO ARTICLE 60 OF TITLE 12, C.R.S., THE TREATMENT OF ANIMALS INVOLVED IN RESEARCH IF SUCH RESEARCH FACILITY IS OPERATING UNDER RULES AND REGULATIONS SET FORTH BY THE STATE OR FEDERAL GOVERNMENT, THE TREATMENT OF ANIMALS INVOLVED IN RODEOS, THE TREATMENT OF DOGS USED FOR LEGAL HUNTING ACTIVITIES, OR TO STATUTES REGULATING ACTIVITIES CONCERNING WILDLIFE AND PREDATOR CONTROL IN THE STATE, INCLUDING TRAPPING.

SECTION 5. 18-1-110 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-1-110. Payment and collection of fines for class 1, 2, or 3 misdemeanors and class 1 or 2 petty offenses - release from incarceration. (3) For the purposes of this section, "nonviolent class 1, 2, or 3 misdemeanor" means a class 1, 2, or 3 misdemeanor ~~which~~ THAT does not involve CRUELTY TO AN ANIMAL, AS DESCRIBED IN SECTION 18-9-202 (1) (a), OR the use or threat of physical force on or to a person in the commission of the misdemeanor.

SECTION 6. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the animal cruelty prevention fund not otherwise appropriated, to the judicial department, for the fiscal year beginning July 1, 1997, the sum of thirty-three thousand one hundred seventy-six dollars (\$33,176), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the animal cruelty prevention fund not otherwise appropriated, to the department of agriculture, for the fiscal year beginning July 1, 1997, the sum of thirty-one thousand eight hundred twenty-four dollars (\$31,824), or so much thereof as may be necessary, for the implementation of this act.

SECTION 7. Effective date. This act shall take effect July 1, 1997.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 4, 1997