

CHAPTER 317

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 00-1330

BY REPRESENTATIVES Gordon, Bacon, Chavez, Coleman, Decker, Gagliardi, Grossman, Johnson, Kaufman, Larson, Mace, Plant, Saliman, Stengel, Takis, Tochtrop, Tupa, Veiga, Webster, S. Williams, and Windels; also SENATORS Perlmutter, Epps, Hernandez, Martinez, Reeves, and Weddig.

AN ACT

CONCERNING THE ENHANCEMENT OF SENTENCING FOR CERTAIN ANIMAL CRUELTY CRIMES.

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

SECTION 1. 18-9-202 (2), Colorado Revised Statutes, is amended to read:

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

(2) (a) Cruelty to animals is a class 1 misdemeanor.

(a.5) (I) (A) In addition to ~~any~~ THE sentence imposed ~~upon a person for violation of any criminal law under this title~~ PURSUANT TO THIS SUBSECTION (2), any person convicted of committing cruelty to animals pursuant to subsection (1) of this section, 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~~ THAT 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(B) This subparagraph (I) is repealed, effective July 1, 2001.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~~ THE sentence imposed ~~upon a person for violation of any criminal law under this title~~ PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a.5) any person convicted of committing cruelty to animals pursuant to subsection (1) of this section, 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~~ THAT needlessly injures, mutilates, or kills an animal, may be ordered to complete an anger management treatment program or any other appropriate treatment program.

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

(III) The court ~~may~~ SHALL order an evaluation to be conducted prior to sentencing ~~if an evaluation would~~ TO 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, WILDLIFE NUISANCES, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(b) In the case of any person incurring a second or subsequent conviction under the provisions of paragraph (a) of this subsection (2), a sentence of imprisonment within the minimum and maximum terms FOR A CLASS 1 MISDEMEANOR AS PROVIDED IN SECTION 18-1-106 shall be mandatory and shall not be subject to suspension, nor shall such person be eligible for probation or parole for any part of such period. A plea of nolo contendere accepted by the court shall be considered a conviction for the purposes of this section.

SECTION 2. Effective date. This act shall take effect September 1, 2000, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: June 1, 2000