

CHAPTER 197

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 07-1235

BY REPRESENTATIVE(S) Stafford, Carroll M., Borodkin, Green, Labuda, and Todd;
also SENATOR(S) Gordon.

AN ACT**CONCERNING CRUELTY TO ANIMALS.**

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

SECTION 1. 18-9-202.5 (1) (a), Colorado Revised Statutes, is amended to read:

18-9-202.5. Financial bonding requirements for costs of holding impounded animals. (1) (a) The owner or custodian of an animal that has been impounded by an impound agency because of alleged neglect or abuse, or because of investigation of charges of cruelty to animals pursuant to section 18-9-202; animal fighting pursuant to section 18-9-204; mistreatment, neglect, or abandonment under article 42 of title 35, C.R.S.; or unlawful ownership of a dangerous dog as described in section 18-9-204.5, may prevent disposition of the animal by an impound agency by posting a bond with the court in an amount sufficient to provide for the animal's care and provision at the impound agency for at least thirty days, including the day on which the animal was taken into custody. The owner or custodian of any impounded animal may request a hearing in a court of competent jurisdiction within ten days after impoundment to determine whether the costs associated with the bond are fair and reasonable for the care of and provision for the impounded animal. Such bond shall be filed with the court within ten days after the animal is impounded. At the end of the time for which expenses are covered by the bond, if the owner or custodian desires to prevent disposition of the animal, the owner or custodian shall post a new bond with the court within ten days after the prior bond's expiration. However, ~~the court shall order the immediate disposition of the animal by euthanasia~~ if, in the opinion of a LICENSED veterinarian, the animal 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. At the end of the time for

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

which expenses are covered by the bond, the impound agency may determine disposition of the animal unless there is a court order prohibiting such disposition. The owner or custodian shall be liable for the cost of the care of, provision for, or disposal of the animal.

SECTION 2. 18-9-204.5 (2) (d), (3) (e) (I), (3) (e) (III) (C), and (3) (g), Colorado Revised Statutes, are amended, and the said 18-9-204.5 (3) (e) (III) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH, to read:

18-9-204.5. Unlawful ownership of dangerous dog. (2) As used in this section, unless the context otherwise requires:

(d) "Domestic animal" means any dog, cat, ANY ANIMAL KEPT AS A HOUSEHOLD PET, or livestock.

(3) (e) (I) Any owner who violates paragraph (a) of this subsection (3) whose dog injures or ~~destroys~~ CAUSES THE DEATH OF any domestic animal commits a class 3 misdemeanor.

(III) (B.5) AN OWNER WHO VIOLATES PARAGRAPH (a) OF THIS SUBSECTION (3) AND WHOSE DOG DAMAGES OR DESTROYS THE PROPERTY OF ANOTHER PERSON COMMITS A CLASS 1 PETTY OFFENSE.

(C) Any owner whose dog DAMAGES OR destroys property shall make restitution to the owner of such property in an amount equal to the greater of the fair market value or the replacement cost of such property before its destruction plus any actual costs incurred in replacing such property.

(g) (I) In addition to the penalties set forth in paragraphs (b) to (e) of this subsection (3), upon an owner's entry of a guilty plea or the return of a verdict of guilty by a judge or jury or a deferred judgment or deferred prosecution for a violation that results in serious bodily injury to a person or death to a person or domestic animal or for a second or subsequent violation of paragraph (b) or (e) of this subsection (3) resulting in a conviction or a deferred judgment or a deferred prosecution involving the same dog of the same owner, the court shall order that the dangerous dog be immediately confiscated and placed in a public animal shelter and shall order that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this subsection (3), the owner's dangerous dog be destroyed by ~~tethal injection~~ EUTHANASIA administered by a licensed veterinarian.

(II) In addition to any penalty set forth in paragraphs (b) to (e) of this subsection (3), for a second or subsequent violation of paragraph (b) or (e) of this subsection (3) resulting in a conviction or a deferred judgment or a deferred prosecution involving the same dog of a different owner, the court may order that the dangerous dog be immediately confiscated and placed in a public animal shelter and that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this subsection (3), the owner's dangerous dog be destroyed by ~~tethal injection~~ EUTHANASIA administered by a licensed veterinarian.

SECTION 3. 18-9-208 (3), Colorado Revised Statutes, is amended to read:

18-9-208. Forfeiture of animals. (3) An order of forfeiture entered pursuant to this section shall provide for the immediate disposition of the forfeited animal by any means described in section 18-9-201 (2.5) other than return to the owner. ~~The court shall order the immediate disposition of the forfeited animal by euthanasia~~ If, in the opinion of a LICENSED veterinarian, ~~such~~ THE animal 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.

SECTION 4. The introductory portion to 18-9-201, Colorado Revised Statutes, is amended, and the said 18-9-201 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

18-9-201. Definitions. As used in ~~sections 18-9-202 and 18-9-202.5~~ SECTIONS 18-9-201.5, 18-9-202, 18-9-202.5, AND 18-9-204.5, unless the context otherwise requires:

(2.9) "LIVESTOCK" MEANS BOVINE, CAMELIDS, CARPINE, EQUINE, OVINE, PORCINE, AND POULTRY.

(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. 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 ACCEPTED ANIMAL HUSBANDRY PRACTICES.

SECTION 5. 18-9-202 (1) (a), (1.5), and (1.8), Colorado Revised Statutes, are amended to read:

18-9-202. Cruelty to animals - aggravated cruelty to animals - neglect of animals - offenses. (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.

(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.

(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.

SECTION 6. 35-42-110, Colorado Revised Statutes, is amended to read:

35-42-110. Injured animals may be euthanized. Any agent of the bureau or peace officer, as described in section 16-2.5-101, C.R.S., may lawfully ~~destroy~~ EUTHANIZE or cause to be ~~destroyed~~ EUTHANIZED, AS DEFINED IN SECTION 18-9-201 (2.7), C.R.S., any animal in his or her charge when, in the judgment of such agent OR PEACE OFFICER, and IN THE OPINION OF A LICENSED VETERINARIAN, THE ANIMAL IS EXPERIENCING EXTREME PAIN OR SUFFERING OR IS SEVERELY INJURED PAST RECOVERY, SEVERELY DISABLED PAST RECOVERY, OR SEVERELY DISEASED PAST RECOVERY. IN THE EVENT A LICENSED VETERINARIAN IS NOT AVAILABLE, THE ANIMAL MAY BE EUTHANIZED IF, by the written certificate of two persons, one of whom may be selected by the owner if the owner so requests, called to view the animal in the presence of the agent, ~~such~~ THE animal appears to be SEVERELY injured PAST RECOVERY, SEVERELY disabled PAST RECOVERY, SEVERELY diseased past recovery, or unfit for any useful purpose.

SECTION 7. 18-6-800.3 (1), Colorado Revised Statutes, is amended to read:

18-6-800.3. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Domestic violence" means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. "Domestic violence" also includes any other crime against a person, or against property, INCLUDING AN ANIMAL, or any municipal ordinance violation against a person, or against property, INCLUDING AN ANIMAL, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

SECTION 8. 18-6-803.5 (1) (a) and (1.5) (a.5) (I), Colorado Revised Statutes, are amended to read:

18-6-803.5. Crime of violation of a protection order - penalty - peace officers' duties. (1) A person commits the crime of violation of a protection order if, after the person has been personally served with a protection order that identifies the person as a restrained person or otherwise has acquired from the court actual knowledge of the contents of a protection order that identifies the person as a restrained person, such person:

(a) Contacts, harasses, injures, intimidates, molests, threatens, or touches the protected person OR PROTECTED PROPERTY, INCLUDING AN ANIMAL, identified in the protection order or enters or remains on premises or comes within a specified distance of the protected person, PROTECTED PROPERTY, INCLUDING AN ANIMAL, or premises or violates any other provision of the protection order to protect the

protected person from imminent danger to life or health, and such conduct is prohibited by the protection order; or

(1.5) As used in this section:

(a.5) (I) "Protection order" means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any protected person OR PROTECTED ANIMAL, or from entering or remaining on premises, or from coming within a specified distance of a protected person OR PROTECTED ANIMAL or premises or any other provision to protect the protected person OR PROTECTED ANIMAL from imminent danger to life or health, that is issued by a court of this state or a municipal court, and that is issued pursuant to:

SECTION 9. 16-11-102.3 (1) (i), Colorado Revised Statutes, is amended, and the said 16-11-102.3 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

16-11-102.3. Genetic testing of convicted offenders - repeal. (1) As used in this section, unless the context otherwise requires, "convicted offender" means a person who is not required to submit to a chemical testing of the person's biological substance sample to determine the genetic markers thereof pursuant to any other provision and who is convicted of, or pleads guilty to any of the following offenses:

(i) Aggravated robbery, in violation of section 18-4-302 (4), C.R.S.; ~~or~~

(i.5) AGGRAVATED CRUELTY TO ANIMALS, IN VIOLATION OF SECTION 18-9-202 (1.5) (b), C.R.S.; OR

SECTION 10. 16-11-104 (1) (a) (II) (I) and (1) (a) (II) (J), Colorado Revised Statutes, are amended, and the said 16-11-104 (1) (a) (II) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH, to read:

16-11-104. Genetic testing - repeal. (1) (a) (II) An offender shall submit to and pay for collection and a chemical testing of a biological substance sample from the offender to determine the genetic markers thereof if the offender is sentenced directly to incarceration in a county jail or to a community corrections facility pursuant to article 27 of title 17, C.R.S., for the conviction of or entry of a guilty or nolo contendere plea to any of the following offenses occurring on or after July 1, 2000:

(I) Second degree burglary, in violation of section 18-4-203, C.R.S.; ~~and~~

(J) Third degree burglary, in violation of section 18-4-204, C.R.S.; AND

(K) AGGRAVATED CRUELTY TO ANIMALS, IN VIOLATION OF SECTION 18-9-202 (1.5) (b), C.R.S.

SECTION 11. Effective date - applicability. This act shall take effect July 1, 2007, and shall apply to offenses committed on or after said date.

SECTION 12. 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: May 5, 2007