
SUBSTITUTE SENATE BILL 5532

State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Agriculture (originally sponsored by Senators M. Rasmussen, Roach, Amondson, Barr and Winsley)

Read first time 02/25/93.

1 AN ACT Relating to animal cruelty; amending RCW 16.52.050,
2 16.52.060, 16.52.070, 16.52.080, 16.52.085, 16.52.140, 16.52.185, and
3 13.40.150; adding a new section to chapter 16.52 RCW; repealing RCW
4 16.52.030, 16.52.040, and 16.52.095; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 16.52 RCW
7 to read as follows:

8 All members and agents, and all officers of any society so
9 incorporated as shall by the trustees of such society be duly
10 authorized in writing, approved by the presiding judge of the superior
11 court of the county, and sworn in the same manner as are law
12 enforcement officers, shall have power lawfully to investigate any
13 violations of law under this title.

14 **Sec. 2.** RCW 16.52.050 and 1901 c 146 s 10 are each amended to read
15 as follows:

16 When complaint is made on oath, to any ((magistrate)) judge
17 authorized to issue warrants in criminal cases that the complainant has
18 probable cause to believe((s)) that any of the provisions of law

1 relating to or in any way affecting animals, are being or are about to
2 be violated in any particular building or place, (~~such magistrates~~
3 ~~shall~~) the judge may issue and deliver immediately a warrant directed
4 to any sheriff, constable, police or peace officer, (~~or officer of any~~
5 ~~incorporated society qualified as provided in RCW 16.52.030,~~)
6 authorizing him or her to enter and search such building or place, and
7 to arrest any person or persons there present violating or attempting
8 to violate any law relating to or in any way affecting animals, and to
9 bring such person or persons before some court or magistrate of
10 competent jurisdiction within the city or county within which such
11 offense has been committed or attempted to be committed, to be dealt
12 with according to law.

13 **Sec. 3.** RCW 16.52.060 and 1987 c 202 s 182 are each amended to
14 read as follows:

15 Any judge, sheriff, deputy, or police officer may arrest any person
16 found committing any of the acts enumerated in RCW 16.52.065 or
17 81.56.120, without a warrant for such arrest, and any officer or member
18 of any humane society, or society for the prevention of cruelty to
19 animals, may cause the immediate arrest of any person engaged in, or
20 who shall have committed such cruelties, upon making (~~oral~~) written
21 complaint to any sheriff, deputy, or police officer (~~, or such officer~~
22 ~~or member of such society may himself or herself arrest any person~~
23 ~~found perpetrating any of the cruelties herein enumerated: PROVIDED,~~
24 ~~That said person making such oral complaint or making such arrest shall~~
25 ~~file with a proper officer a written complaint, stating the act or acts~~
26 ~~complained of, within twenty-four hours, excluding Sundays and legal~~
27 ~~holidays, after such arrest shall have been made)).~~

28 **Sec. 4.** RCW 16.52.070 and 1982 c 114 s 4 are each amended to read
29 as follows:

30 (1) Except as provided in RCW 9A.48.080, every person who engages
31 in the following conduct shall be guilty of a gross misdemeanor:
32 Cruelly kill, cause, procure, authorize, request, or encourage so to be
33 cruelly killed, any animal; cruelly beat, mutilate, torture, torment,
34 any animal; and whoever having the charge or custody of any animal,
35 either as owner or otherwise, inflicts unnecessary suffering or pain
36 upon the same, or who cruelly abandons any animal.

1 (2) Except as provided in RCW 9A.48.080, every person who cruelly
2 overdrives, overloads, drives when overloaded, overworks, (~~tortures,~~
3 ~~torments,~~) deprives of necessary sustenance, (~~cruelly beats,~~
4 ~~mutilates or cruelly kills,~~) or causes, procures, authorizes, requests
5 or encourages so to be overdriven, overloaded, driven when overloaded,
6 overworked, (~~tortured, tormented,~~) deprived of necessary sustenance,
7 (~~cruelly beaten or mutilated or cruelly killed,~~) any animal; and
8 whoever having the charge or custody of any animal, either as owner or
9 otherwise, inflicts unnecessary suffering or pain upon the same when
10 such suffering or pain does not rise to the level found to be a gross
11 misdemeanor, or unnecessarily fails to provide the same with the proper
12 food, drink, air, light, space, shelter or protection from the weather,
13 or who wilfully and unreasonably drives the same when unfit for labor
14 or with yoke or harness that chafes or galls it, or check rein or any
15 part of its harness too tight for its comfort, or at night when it has
16 been six consecutive hours without a full meal, (~~or who cruelly~~
17 ~~abandons any animal,~~) shall be guilty of a misdemeanor.

18 (3) For the purposes of this section, necessary sustenance or
19 proper food means the provision at suitable intervals, not to exceed
20 twenty-four hours, of wholesome foodstuff suitable for the species and
21 age of the animal and sufficient to provide a reasonable level of
22 nutrition for the animal.

23 (4) This section shall not apply to persons engaged in properly
24 conducted medical, veterinarian, or health-oriented research
25 experiments, tests, projects, or procedures, whether conducted by
26 public or private research facilities, or under the authority of a
27 research facility registered with the United States department of
28 agriculture and regulated by 7 U.S.C. Sec. 2131 et seq.

29 **Sec. 5.** RCW 16.52.080 and 1982 c 114 s 5 are each amended to read
30 as follows:

31 (~~Any person who wilfully transports or confines or causes to be~~
32 ~~transported or confined any domestic animal or animals in a manner,~~
33 ~~posture or confinement that will jeopardize the safety of the animal or~~
34 ~~the public shall be guilty of a misdemeanor.—And)) Whenever ((any
35 such)) a person ((shall be)) is taken into custody or ((be)) subject to
36 arrest pursuant to a valid warrant therefor by any officer ((or~~
37 ~~authorized person)), such officer or person may take charge of the
38 animal or animals; and any necessary expense thereof shall be a lien~~

1 thereon to be paid before the animal or animals may be recovered; and
2 if the expense is not paid, it may be recovered from the owner of the
3 animal or the person guilty. If unpaid for a period of ten days from
4 the date demand is made upon the owner of the animal for payment, the
5 agency having possession of such animal shall pursue the remedies set
6 forth in chapter 60.60 RCW.

7 **Sec. 6.** RCW 16.52.085 and 1987 c 335 s 1 are each amended to read
8 as follows:

9 (1) If the county sheriff or other law enforcement officer shall
10 find that said domestic animal has been neglected by its owner, he or
11 she may authorize the removal of the animal to a proper pasture or
12 other suitable place for feeding and restoring to health.

13 (2) If a law enforcement officer has probable cause to believe a
14 violation of this chapter has occurred, the officer may ~~((authorize))~~
15 petition any judge authorized to issue warrants to order an examination
16 of an allegedly neglected domestic animal by a veterinarian to
17 determine whether the level of neglect is sufficient to require removal
18 of the animal. This section does not condone illegal entry onto
19 private property.

20 (3) Any owner whose domestic animal is removed to a suitable place
21 pursuant to this chapter shall be given written notice of the
22 circumstances of the removal and notice of legal remedies available to
23 the owner. The notice shall be given by posting at the place of
24 seizure, by delivery to a person residing at the place of seizure, or
25 by registered or certified mail if the owner is known. In making the
26 decision to remove an animal pursuant to this chapter, the law
27 enforcement officer shall make a good faith effort to contact the
28 animal's owner before removal unless the animal is in a life-
29 threatening condition or unless the officer reasonably believes that
30 the owner would remove the animal from the jurisdiction.

31 (4) If a criminal case is filed within seven business days of the
32 removal of the animal, then the humane society, animal control agency,
33 or agency that has custody of the animal seized shall have a lien on
34 the animal seized for the costs to the humane society, animal control
35 agency, or agency holding the animal for freight, transportation,
36 storage, provision of food, medical and other care, and all other
37 reasonable and necessary expenses involved in caring for the animal

1 during the time that the agency has custody of the animal, which lien
2 shall be identical to the lien set forth in RCW 60.60.010.

3 If the court having jurisdiction of the criminal case orders at any
4 time that the animal be returned to its owner or to the person from
5 whose custody or control the animal was removed, the court shall order
6 the owner or other person to pay to the humane society, animal control
7 agency, or other agency having custody of the animal all reasonable and
8 necessary costs, set forth in this subsection, before imposing any duty
9 upon the agency to return the animal. If the owner or other person
10 does not pay those necessary costs within ten days of the order, then
11 the humane society or other agency having custody of the animal shall
12 foreclose upon its lien by selling the animal in the manner set forth
13 in chapter 60.60 RCW.

14 If the court having jurisdiction of the criminal case orders that
15 the animal not be returned to the owner or other person from whose
16 custody or control the animal was removed, the court shall order the
17 humane society, animal control agency, or other agency having custody
18 of the animal to sell the animal in the manner set forth in chapter
19 60.60 RCW.

20 In no case may the humane society, animal control agency, or other
21 agency selling an animal pursuant to this chapter refuse to sell the
22 animal to the highest bidder, unless the successful bidder is the owner
23 or other person from whose custody or control the animal was removed,
24 and from whose custody the court having jurisdiction of the criminal
25 case ordered the animal permanently removed, or unless the successful
26 bidder is a person whom the humane society or animal control agency
27 knows to have been convicted of any violation of this title.

28 (5) If no criminal case is filed within (~~seventy-two hours~~) seven
29 business days of the removal of the animal, (~~the owner may petition~~
30 ~~the district court of the county where the removal of the animal~~
31 ~~occurred for the return of the animal. The petition~~) the agency in
32 whose custody the animal has been kept shall make reasonable efforts to
33 return the animal to its owner or to the person from under whose
34 control the animal was removed at the time of removal of the animal by
35 the responsible law enforcement agency. The superior court of the
36 county from which the animal was removed may order the forfeiture of
37 the animal from its owner or from the person from whose custody or
38 control the animal was removed, if the court finds by a preponderance
39 of the evidence that the animal is likely to suffer future neglect of

1 a similar nature to that which was used by the law enforcement agency
2 to justify the removal of the animal. A petition by the agency having
3 custody of the animal shall be filed with the court, with copies served
4 to the law enforcement agency responsible for removing the animal and
5 to the prosecuting attorney. If a criminal action is filed after the
6 petition is filed but before the animal is returned, the petition shall
7 be joined with the criminal matter.

8 ~~((+5))~~ (6) In a motion or petition for the return of the removed
9 animal before a trial, the burden is on the ~~((owner))~~ humane society,
10 animal control agency, or agency having custody of the animal to prove
11 by a preponderance of the evidence that the animal will ~~((not))~~ suffer
12 future neglect and is ~~((not))~~ in need of being restored to health.

13 ~~((+6))~~ (7) Any authorized person treating or attempting to restore
14 an animal to health under this chapter shall not be civilly or
15 criminally liable for such action.

16 **Sec. 7.** RCW 16.52.140 and 1901 c 146 s 11 are each amended to read
17 as follows:

18 Any ~~((person qualified under RCW 16.52.030 and any))~~ sheriff,
19 constable, police or peace officer may enter any place, building or
20 tenement, where there is an exhibition of the fighting of birds or
21 animals or where preparations are being made or training had for such
22 exhibition, and without a warrant arrest all or any persons there
23 present and bring them before some court or magistrate of competent
24 jurisdiction to be dealt with according to law.

25 **Sec. 8.** RCW 16.52.185 and 1982 c 114 s 10 are each amended to read
26 as follows:

27 Nothing in this chapter applies to accepted husbandry practices
28 used in the commercial raising or slaughtering of livestock or poultry,
29 or products thereof or to the use of animals in the normal and usual
30 course of rodeo events, purebred dog and cat shows, field trials,
31 terrier trials, 4-H events, circuses, zoos, aquariums, and fairs.

32 **Sec. 9.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to
33 read as follows:

34 (1) In disposition hearings all relevant and material evidence,
35 including oral and written reports, may be received by the court and
36 may be relied upon to the extent of its probative value, even though

1 such evidence may not be admissible in a hearing on the information.
2 The youth or the youth's counsel and the prosecuting attorney shall be
3 afforded an opportunity to examine and controvert written reports so
4 received and to cross-examine individuals making reports when such
5 individuals are reasonably available, but sources of confidential
6 information need not be disclosed. The prosecutor and counsel for the
7 juvenile may submit recommendations for disposition.

8 (2) For purposes of disposition:

9 (a) Violations which are current offenses count as misdemeanors;

10 (b) Violations may not count as part of the offender's criminal
11 history;

12 (c) In no event may a disposition for a violation include
13 confinement.

14 (3) Before entering a dispositional order as to a respondent found
15 to have committed an offense, the court shall hold a disposition
16 hearing, at which the court shall:

17 (a) Consider the facts supporting the allegations of criminal
18 conduct by the respondent;

19 (b) Consider information and arguments offered by parties and their
20 counsel;

21 (c) Consider any predisposition reports;

22 (d) Consult with the respondent's parent, guardian, or custodian on
23 the appropriateness of dispositional options under consideration and
24 afford the respondent and the respondent's parent, guardian, or
25 custodian an opportunity to speak in the respondent's behalf;

26 (e) Allow the victim or a representative of the victim and an
27 investigative law enforcement officer to speak;

28 (f) Determine the amount of restitution owing to the victim, if
29 any;

30 (g) Determine whether the respondent is a serious offender, a
31 middle offender, or a minor or first offender;

32 (h) Consider whether or not any of the following mitigating factors
33 exist:

34 (i) The respondent's conduct neither caused nor threatened serious
35 bodily injury or the respondent did not contemplate that his or her
36 conduct would cause or threaten serious bodily injury;

37 (ii) The respondent acted under strong and immediate provocation;

1 (iii) The respondent was suffering from a mental or physical
2 condition that significantly reduced his or her culpability for the
3 offense though failing to establish a defense;

4 (iv) Prior to his or her detection, the respondent compensated or
5 made a good faith attempt to compensate the victim for the injury or
6 loss sustained; and

7 (v) There has been at least one year between the respondent's
8 current offense and any prior criminal offense;

9 (i) Consider whether or not any of the following aggravating
10 factors exist:

11 (i) In the commission of the offense, or in flight therefrom, the
12 respondent inflicted or attempted to inflict serious bodily injury to
13 another;

14 (ii) The offense was committed in an especially heinous, cruel, or
15 depraved manner;

16 (iii) The victim or victims were particularly vulnerable;

17 (iv) The respondent has a recent criminal history or has failed to
18 comply with conditions of a recent dispositional order or diversion
19 agreement;

20 (v) The current offense included a finding of sexual motivation
21 pursuant to RCW 9.94A.127;

22 (vi) The respondent was the leader of a criminal enterprise
23 involving several persons; ((and))

24 (vii) The offense involved cruelty to animals; and

25 (viii) There are other complaints which have resulted in diversion
26 or a finding or plea of guilty but which are not included as criminal
27 history.

28 (4) The following factors may not be considered in determining the
29 punishment to be imposed:

30 (a) The sex of the respondent;

31 (b) The race or color of the respondent or the respondent's family;

32 (c) The creed or religion of the respondent or the respondent's
33 family;

34 (d) The economic or social class of the respondent or the
35 respondent's family; and

36 (e) Factors indicating that the respondent may be or is a dependent
37 child within the meaning of this chapter.

1 (5) A court may not commit a juvenile to a state institution solely
2 because of the lack of facilities, including treatment facilities,
3 existing in the community.

4 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
5 each repealed:

6 (1) RCW 16.52.030 and 1982 c 114 s 2 & 1901 c 146 s 2;

7 (2) RCW 16.52.040 and 1901 c 146 s 14; and

8 (3) RCW 16.52.095 and Code 1881 s 840 & 1871 p 103 s 1.

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