

SENATE BILL REPORT

SB 5735

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, JANUARY 28, 1994

Brief Description: Enhancing penalties for animal cruelty.

SPONSORS: Senators Moore and A. Smith

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5735 be substituted therefor, and the substitute bill do pass.

Signed by Senators A. Smith, Chairman; Hargrove, Nelson, Quigley, Roach, Schow and Spanel.

Staff: Lidia Mori (786-7755)

Hearing Dates: January 13, 1994; January 28, 1994

BACKGROUND:

Much of the law in Washington proscribing cruelty to animals was written in 1901 or earlier, including the definition of "cruelty." Terms used in the animal cruelty statutes are outdated and considered vague and unworkable by prosecutors and animal control officers. There is concern that the current laws are too limited in scope for effective protection and enforcement and the sanctions attached to the prohibited acts do not fit the severity of the acts involved. There is an increasing body of research and opinion to support the view that cruelty toward animals is a precursor to violent behavior against humans.

There are several types of activities which are exempted in the animal cruelty statutes. These include the game laws, the right to kill any venomous reptile, the right to kill animals to be used as food, properly conducted scientific experiments, accepted husbandry practices and rodeo events.

Intentional cruelty to animals or negligent treatment of animals is a misdemeanor. A person who owns, trains, or for amusement or gain, causes any dog to fight with another dog is guilty of a gross misdemeanor. It is a misdemeanor for a person to cause a cock to fight if done for amusement or gain.

A county sheriff or other law enforcement officer may authorize the removal of an animal to a proper place for care if the officer finds that the animal has been neglected by its owner. The owner is given notice of the removal and if no criminal case is filed within 72 hours, he or she may petition the court for the return of the animal.

Members or agents of an incorporated society that are sworn in the same manner as peace officers are authorized to make

arrests and carry the same weapons as peace officers are authorized to carry.

SUMMARY:

Members and agents of an incorporated society that are sworn in the same manner as peace officers are not permitted to make arrests for violations of animal cruelty laws. Their authority to carry a weapon is limited to nonfirearm protective devices and firearms other than handguns, semiautomatic and automatic weapons. They are allowed to use the firearms for the purpose of emergency humane disposal of injured animals. Before a judge will approve and swear in a member or agent of any such incorporation, there must be satisfactory evidence provided to the judge that they have completed a training program necessary for the performance of their duties.

The crime of animal cruelty in the first degree consists of the intentional or knowing infliction of substantial pain or causing physical injury or death of an animal by a means causing undue suffering. Animal cruelty in the first degree is a class C felony.

Animal cruelty in the second degree involves the use of an animal for purposes of human sexual arousal or intercourse or the abandonment or failure to provide an animal the person owns with basic necessities such as food, water, and sanitation and such failure results in the physical injury or death of the animal. Animal cruelty in the second degree is a gross misdemeanor.

Animal cruelty in the third degree is a misdemeanor and occurs when a person abandons or fails to provide an animal that the person owns with basic necessities such as food, water, and sanitation and such failure jeopardizes the health or safety of the animal.

It is a class C felony for a person, for amusement or gain, to cause an animal to fight. Being knowingly present at an animal fighting exhibition as a spectator is a gross misdemeanor and property that was used in the animal fight can be ordered forfeited by the court.

"Peace officer" and "deputy" are added to the list of officers who can authorize removal of an animal to a proper place for care if that person has probable cause to believe the animal has been neglected or cruelly treated by its owner and no responsible person can be found to assume care of the animal. The owner must be given written notice of the removal by posting a notice at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail. The owner may petition the court for the return of the animal but, if after 14 days the owner has not petitioned the court for the animal's return or posted a bond to care for the animal, the animal may be made available for adoption or humanely disposed.

A civil cause of action is created such that an owner who believes his or her animal was subjected to cruelty may bring an action to recover actual damages, including emotional distress.

EFFECT OF PROPOSED SUBSTITUTE:

A person who suffers damages as a result of the act or omission of any member, agent, or officer of any incorporated society that has been sworn in the same manner as are peace officers, when that act or omission is performed in bad faith and in violation of his or her duties, has a cause of action for damages, costs, and attorney fees. Members and agents that are sworn in the same manner as are peace officers have the authority to carry firearms, if licensed as required by law.

It is a class C felony for a person, for amusement or gain, to cause, permit, assist or facilitate animal fighting.

A person that forces a minor to inflict unnecessary pain, injury, or death on an animal is guilty of animal cruelty in the first degree. Animal cruelty in the second degree includes circumstances not amounting to animal cruelty in the first degree. It is an affirmative defense in a prosecution for animal cruelty in the third degree if the defendant can show by a preponderance of the evidence that the defendant's failure was due to economic distress beyond the defendant's control.

It is discretionary for a court to order the forfeiture of an animal held by law enforcement when one of the animals dies as a result of a violation of the animal cruelty statutes or if the offender has a prior conviction for animal cruelty.

The owner of an animal that has been subjected to animal cruelty may bring a civil action and recover actual damages.

Appropriation: none

Revenue: none

Fiscal Note: requested January 12, 1994

TESTIMONY FOR:

This bill deals not only with animal cruelty, but also with violence. Animal cruelty is a sign of subsequent crime. Bill would allow many options for prosecutors due to felony being unranked. Current law needs updating badly. In 1987, DSM III included cruelty to animals as a symptom of anti-social behavior. One study showed that 30 percent of abused children displayed the behavior of cruelty to animals while only 3 to 4 percent of nonabused children showed this behavior.

TESTIMONY AGAINST:

Want animal husbandry exemptions emphasized. Concern expressed that if one were to kill a mouse in the kitchen, that act would a crime.

TESTIFIED: PRO: Senator Ray Moore; Norm Maleng, King County Prosecutor; Dr. Frank Ascione, developmental psychologist; Mark Mayo, PAWS; Steve Ann Chambers, Animal Legal Defense Fund; Larry Pederson; Jean Werner, Exec. Director of Humane Society For Tacoma/Pierce County; Dr. Lothar Pinkers, WA State Horse Council; Sandra Gyll; Roseanne Galak; Susan Michaels; Suzanne Beauregard, Thurston County Animal Services; CON: Ken Koski; Kent Lebsack, WA Cattlemen's Assn.