

HOUSE BILL REPORT

HB 1961

As Passed House:

January 29, 2024

Title: An act relating to animal cruelty in the first degree.

Brief Description: Concerning animal cruelty in the first degree.

Sponsors: Representatives Low, Walen, Leavitt, Eslick, Sandlin, Paul, Couture, Ramel, Ramos, Bateman, Graham, Cheney, Riccelli, Pollet and Shavers.

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 1/8/24, 1/18/24 [DP].

Floor Activity:

Passed House: 1/29/24, 95-1.

Brief Summary of Bill

- Classifies Animal Cruelty in the first degree as a seriousness level III offense regardless of how it is committed.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass. Signed by 9 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse, Graham and Ramos.

Staff: Benjamin Ratcliff (786-7291) and Michelle Rusk (786-7153).

Background:

Animal Cruelty in the First Degree.

Commission of the offense of Animal Cruelty in the first degree may occur in three

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different ways. A person commits Animal Cruelty in the first degree when he or she:

1. except as authorized by law: (a) intentionally inflicts substantial pain on; (b) causes physical injury to; or (c) kills an animal by a means causing undue suffering or while manifesting an extreme indifference to life, or forces a minor to inflict unnecessary pain, injury, or death on an animal;
2. except as authorized by law, with criminal negligence, starves, dehydrates, or suffocates an animal, or exposes an animal to excessive heat or cold and as a result causes substantial and unjustifiable physical pain or death; or
3. knowingly engages in, causes, aids or abets, permits, organizes, promotes, advertises, or photographs or films for the purpose of sexual gratification, certain conduct involving sexual conduct or sexual contact with an animal.

Animal Cruelty in the first degree is a class C felony. It is a seriousness level III offense to commit the crime of Animal Cruelty in the first degree by means of knowingly engaging in, causing, aiding or abetting, permitting, organizing, promoting, advertising, or photographing or filming for the purpose of sexual gratification, certain conduct involving sexual conduct or sexual contact with an animal. The other two means of committing Animal Cruelty in the first degree do not have an assigned seriousness level.

Classification of Crimes and Fines.

Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of confinement (prison or jail) and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When a person is convicted of a felony, the Sentencing Reform Act applies and determines a specific range of confinement within the statutory maximum. Ranges are determined by a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history. Seriousness levels range from I to XVI, and offender scores can range from zero to nine or more points. A higher seriousness level or offender score results in a longer sentence.

Summary of Bill:

Every manner of committing the crime of Animal Cruelty in the first degree is ranked as a seriousness level III offense.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This policy clarifies the law relating to animal cruelty crimes. The current law, by failing to categorize the first two means of committing Animal Cruelty in the first degree with a seriousness level, lacks consistency and makes it difficult for prosecutors, judges, and criminal defense attorneys alike to litigate animal cruelty cases with any degree of uniformity. Because of this lack of guidance, cases involving the abuse of hundreds of animals are often prosecuted with the same severity of punishment as those involving only one abused animal. The bill provides guidance and uniformity by classifying Animal Cruelty in the first degree—which is already a class C felony—as a seriousness level III offense, much like other similar animal-related crimes like unlawful hunting of big game and endangered species.

The bill is a common sense step toward ensuring the dignity and safety of animals. Furthermore, the classification as a seriousness level III crime comports with the recommendation of the Sentencing Guidelines Commission's report from May of 2023. The bill would deter animal abuse and engender a stronger social ethos by encouraging better education regarding the ethical treatment of animals.

(Opposed) The classification of each means of committing Animal Cruelty in the first degree as a seriousness level III crime would impose potentially excessive and needless penalties against defendants, as well as prevent flexibility in sentencing.

One of the three means of committing Animal Cruelty in the first degree—starving, dehydrating, suffocating, or exposing an animal to excessive temperatures in a manner that causes substantial and unjustifiable physical pain or death—requires only criminal negligence, rather than intentional action, for the requisite mens rea. This is a lower threshold and should thus be treated differently. Washington law regarding animal cruelty should be restructured to accommodate a negligent state of mind as a lower degree of animal cruelty.

Many crimes involving intentional harm to humans, including vehicular assault, are classified as a level III seriousness level. Because intentional conduct toward humans should be treated as more serious than negligence toward animals, this level III

classification is unwise. Moreover, the bill does nothing to address the concerns over the unit of prosecution for cruelty perpetrated against multiple animals as opposed to just one.

Persons Testifying: (In support) Representative Sam Low, prime sponsor; Brenna Anderst, Pasado's Safe Haven; Nathaniel Block, Skagit County Prosecuting Attorney's Office; and Mick Szydowski, Progressive Animal Welfare Society.

(Opposed) Ramona Brandes, Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.