

MAR 17 1999

REPRINTED

3/31/99 Motion to R/c vote
by Slip
4/1/99 Motion to R/c withdrawn

723

Place On Calendar

HOUSE FILE
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 511)

Passed House, ^(p.986) Date 3/31/99 Passed Senate, ^(p.1023) Date 4/5/00
Vote: Ayes 64 Nays 35 Vote: Ayes 46 Nays 4
Approved 4-28-00

A BILL FOR

1 An Act prohibiting the mistreatment of animals and providing for
2 penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

HF 723

1 Section 1. Section 713.1, Code 1999, is amended to read as
2 follows:

3 713.1 BURGLARY DEFINED.

4 Any person, having the intent to commit a felony, assault,
5 or theft, or injure or kill an animal therein, who, having no
6 right, license or privilege to do so, enters an occupied
7 structure, such occupied structure not being open to the
8 public, or who remains therein after it is closed to the
9 public or after the person's right, license or privilege to be
10 there has expired, or any person having such intent who breaks
11 an occupied structure, commits burglary.

12 Sec. 2. NEW SECTION. 713.8 COUNSELING -- BURGLARY --
13 ABUSE OF ANIMALS.

14 A person found guilty of burglary who injures or kills an
15 animal during the commission of the offense shall participate
16 in counseling according to the terms ordered by the court.
17 The counseling shall be provided by a licensed mental health
18 counselor appointed or approved by the court. The costs of
19 counseling shall be paid by the person and may be taxed as
20 court costs.

21 Sec. 3. Section 717.1A, unnumbered paragraph 1, Code 1999,
22 is amended to read as follows:

23 A person is guilty of livestock abuse if the person
24 intentionally injures or destroys livestock owned by another
25 person, in any manner, including, but not limited to,
26 intentionally doing any of the following: administering drugs
27 or poisons to the livestock, or disabling the livestock by
28 using a firearm or trap. A person guilty of livestock abuse
29 commits an aggravated misdemeanor. The person shall
30 participate in counseling according to the terms ordered by
31 the court. The counseling shall be provided by a licensed
32 mental health counselor appointed or approved by the court.
33 The costs of counseling shall be paid by the person and may be
34 taxed as court costs. This section shall not apply to any of
35 the following:

1 Sec. 4. Section 717B.2, unnumbered paragraph 1, Code 1999,
2 is amended to read as follows:

3 A person is guilty of animal abuse if the person
4 intentionally injures, maims, disfigures, or destroys an
5 animal owned by another person, in any manner, including
6 intentionally poisoning the animal. A person guilty of animal
7 abuse is guilty of an aggravated misdemeanor. The person
8 shall participate in counseling according to the terms ordered
9 by the court. The counseling shall be provided by a licensed
10 mental health counselor appointed or approved by the court.
11 The costs of counseling shall be paid by the person and may be
12 taxed as court costs. This section shall not apply to any of
13 the following:

14 EXPLANATION

15 This bill provides for mandating counseling for persons
16 convicted of certain crimes involving animals.

17 Code chapters 717 and 717B provide criminal penalties for
18 the mistreatment of animals. The Code chapters are similar.
19 Code chapter 717 applies to livestock and Code chapter 717B
20 applies to other animals. The chapters prohibit abuse which
21 applies to a person other than the owner and neglect which
22 applies to the owner.

23 Under current law, a person guilty of livestock abuse or
24 animal abuse commits an aggravated misdemeanor. A person who
25 commits livestock or animal neglect is guilty of a simple
26 misdemeanor. A person who intentionally commits livestock
27 neglect or animal neglect which results in serious injury to
28 or the death of livestock or an animal is guilty of a serious
29 misdemeanor.

30 This bill amends Code chapter 713 which provides criminal
31 penalties for burglary. The bill amends Code section 713.1,
32 which defines burglary, to include injuring or killing an
33 animal. The bill requires that a person who injures or kills
34 an animal under Code chapter 713, 717, or 717B must
35 participate in counseling according to the terms ordered by

1 the court.

2

**HOUSE FILE 723
FISCAL NOTE**

The estimate for House File 723 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Section 1 of House File 723 changes the definition of burglary to include any person having the intent to injure or kill an animal. Section 2 states any person who injures or kills an animal while committing burglary will participate in counseling and pay the cost of the counseling. Sections 3 and 4 of the Bill state that any person who intentionally injures or destroys livestock or an animal is guilty of livestock or animal abuse, an aggravated misdemeanor. A person guilty of livestock or animal abuse will participate in counseling and pay the cost of the counseling.

ASSUMPTIONS

1. During FY 1997, there were three convictions under Section 717.2(2) and four convictions under Section 717B.3 for a total of seven convictions. It is assumed there will be seven conviction per year under the current law and less than seven of these convictions under House File 723 will be for burglary.
2. During FY 1997, there were seven convictions for offenses covered in Sections 3 and 4 of the Bill, where counseling would be required. If the costs of counseling were not paid by the defendant, there would be minimal impact on court costs.

CORRECTIONAL IMPACT

The Bill will have a minimal correctional impact.

FISCAL IMPACT

House File 723 is expected to have a minimal fiscal impact.

SOURCE

Department of Human Rights

(LSB 1588hv, SKW)

FILED MARCH 30, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR

LSB 1588HV 78

da/cf/24

HOUSE FILE 723

H-1227

1 Amend House File 723 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 717.1, Code 1999, is amended
5 by adding the following new subsections:

6 NEW SUBSECTION. 0A. "Animal" means the same as
7 defined in section 717A.1.

8 NEW SUBSECTION. 1A. "Licensed mental health
9 counselor" means a person licensed to practice mental
10 health counseling under chapters 147 and 154D.

11 NEW SUBSECTION. 7. "Warden" means animal warden
12 as defined in section 162.2.

13 Sec. 2. Section 717.1A, unnumbered paragraph 1,
14 Code 1999, is amended to read as follows:

15 A person is guilty of livestock abuse if the person
16 intentionally injures, maims, disfigures, or destroys
17 livestock owned-by-another-person,-in-any-manner,
18 including,-but-not-limited-to,-intentionally-doing-any
19 of-the-following--administering-drugs-or-poisons-to
20 the-livestock,-or-disabling-the-livestock-by-using-a
21 firearm-or-trap by any means that causes pain or
22 suffering in a manner inconsistent with customary
23 animal husbandry practices. A-person-guilty-of

24 livestock-abuse-commits-an-aggravated-misdemeanor.
25 This section shall not apply to any of the following:

26 Sec. 3. Section 717.1A, subsection 1, Code 1999,
27 is amended by striking the subsection.

28 Sec. 4. Section 717.2, subsection 1, paragraph c,
29 Code 1999, is amended by striking the paragraph.

30 Sec. 5. Section 717.2, subsection 2, Code 1999, is
31 amended by striking the subsection.

32 Sec. 6. NEW SECTION. 717.3 REPORTING REQUIRED.

33 1. A person shall immediately report an incident
34 involving a violation of section 717B.2 or 717B.3 to a
35 law enforcement officer, if all of the following
36 apply:

37 a. The person is any of the following:

38 (1) A warden.

39 (2) A veterinarian licensed pursuant to chapter
40 169.

41 (3) An employee of the department of agriculture
42 and land stewardship who regularly inspects the
43 premises of agricultural operations.

44 (4) An employee of the division of child and
45 family services of the department of human services or
46 a person who provides child welfare services as
47 provided in section 235.1.

48 b. The person witnesses or has other credible
49 evidence of any of the following:

50 (1) A violation of section 717B.2 or 717B.3.

H-1227

H-1227

Page 2

1 (2) Conditions or incidents that have caused
2 livestock prolonged suffering in a manner inconsistent
3 with customary animal husbandry practices.

4 2. If there is reasonable grounds to believe that
5 there is a violation of section 717B.2 or 717B.3, a
6 law enforcement officer shall conduct an investigation
7 and report any violation to the county attorney.

8 Sec. 7. NEW SECTION. 717.4 PENALTIES.

9 1. a. Any person who commits livestock abuse as
10 provided in section 717.1A, is guilty of a class "D"
11 felony.

12 b. The following penalties shall apply to any
13 person who commits livestock neglect as provided in
14 section 717.2:

15 (1) Except as provided in subparagraph (2), a
16 person who negligently or intentionally commits
17 livestock neglect is guilty of a simple misdemeanor.

18 (2) A person who intentionally commits the offense
19 of livestock neglect which results in serious injury
20 to or the death of livestock is guilty of an
21 aggravated misdemeanor for the first offense and a
22 class "D" felony for the second and subsequent
23 offenses. A person is not guilty of more than one
24 offense of livestock neglect, punishable as provided
25 in this subparagraph, when care or sustenance is not
26 provided to multiple head of livestock during any
27 period of uninterrupted neglect.

28 2. If a person is guilty of a class "D" felony as
29 provided in this section, the sentencing order shall
30 provide for all of the following:

31 a. The person shall participate in counseling
32 according to the terms ordered by the court. The
33 counseling shall be provided by a licensed mental
34 health counselor appointed or approved by the court.
35 The costs of counseling shall be paid by the person
36 and may be taxed as court costs. If the court
37 determines that the person is unable to make payment,
38 the court may order that the costs be paid in full or
39 in part from the county treasury.

40 b. The person shall not own, keep, or care for
41 livestock or any animal for a suspensory period as
42 provided in this paragraph. The suspensory period
43 shall be for not less than five years and not more
44 than ten years as ordered by the court. If the person
45 is not incarcerated, the suspensory period shall begin
46 on the date of sentencing. If the person is
47 incarcerated, the suspensory period shall begin on the
48 date that the person's incarceration ends. A person
49 who violates a suspensory period condition is guilty
50 of a serious misdemeanor.

H-1227

-2-

H-1227

Page 3

1 c. The person shall pay reasonable costs of the
2 investigation and prosecution of the case as ordered
3 by the court. The person shall also pay expenses
4 incurred in maintaining the livestock as ordered by
5 the court, unless the expenses have been paid pursuant
6 to section 717.5.

7 Sec. 8. NEW SECTION. 717.6 FORFEITURE.

8 If a person is guilty of a class "D" felony as
9 provided in section 717.4, all livestock or any animal
10 owned by the person shall be forfeited to the state,
11 to the extent that the livestock or animal has not
12 been disposed of as provided in section 717.5 or
13 717B.5. The livestock or any animal shall be seized
14 and forfeited in the same manner as provided in
15 chapter 809A. Livestock or animals which are
16 destroyed shall be destroyed only by a humane method,
17 including euthanasia as defined in section 162.2.

18 Sec. 9. Section 717B.1, Code 1999, is amended by
19 adding the following new subsections:

20 NEW SUBSECTION. 3A. "Licensed mental health
21 counselor" means a person licensed to practice mental
22 health counseling under chapters 147 and 154D.

23 NEW SUBSECTION. 3B. "Livestock" means the same as
24 defined in section 717.1.

25 NEW SUBSECTION. 6. "Warden" means the same as
26 animal warden as defined in section 162.2.

27 Sec. 10. Section 717B.2, unnumbered paragraph 1,
28 Code 1999, is amended to read as follows:

29 A person is guilty of animal abuse if the person
30 intentionally injures, maims, disfigures, or destroys
31 an animal ~~owned by another person by any means, in any~~
32 ~~a manner, including intentionally poisoning the animal~~
33 ~~inconsistent with customary animal husbandry~~
34 ~~practices. A person guilty of animal abuse is guilty~~
35 ~~of an aggravated misdemeanor.~~ This section shall not
36 apply to any of the following:

37 Sec. 11. Section 717B.2, subsection 1, Code 1999,
38 is amended by striking the subsection.

39 Sec. 12. Section 717B.3, subsection 1, Code 1999,
40 is amended to read as follows:

41 1. A person who impounds or confines, in any
42 place, an animal is guilty of animal neglect, if the
43 person does any of the following: fails to supply the
44 animal during confinement with a sufficient quantity
45 of food or water; fails to provide a confined dog or
46 cat with adequate shelter; or ~~tortures,~~ deprives of
47 ~~the animal necessary sustenance,~~ ~~mutilates,~~ ~~beats,~~ or
48 ~~kills an animal by any means which causes unjustified~~
49 ~~pain, distress, or suffering.~~

50 Sec. 13. Section 717B.3, subsection 3, Code 1999,

H-1227

-3-

H-1227

Page 4

1 is amended by striking the subsection.

2 Sec. 14. NEW SECTION. 717B.3A REPORTING

3 REQUIRED.

4 1. A person shall immediately report an incident
5 or condition involving a violation of section 717B.2
6 or 717B.3 to a law enforcement officer, if all of the
7 following apply:

8 a. The person is any of the following:

9 (1) A warden.

10 (2) A veterinarian licensed pursuant to chapter
11 169.

12 (3) An employee of the department of agriculture
13 and land stewardship who regularly inspects commercial
14 establishments as provided in chapter 162.

15 (4) An employee of the division of child and
16 family services of the department of human services or
17 a person who provides child welfare services as
18 provided in section 235.1.

19 b. The person witnesses or has other credible
20 evidence of any of the following:

21 (1) A violation of section 717B.2 or 717B.3.

22 (2) Conditions or incidents that have caused
23 animals prolonged suffering.

24 2. If there is reasonable grounds to believe that
25 there is a violation of this section, a law
26 enforcement officer shall conduct an investigation and
27 report any violation to the county attorney.

28 Sec. 15. NEW SECTION. 717B.4A PENALTIES.

29 1. a. Any person who commits animal abuse as
30 provided in section 717B.2 is guilty of a class "D"
31 felony.

32 b. The following penalties shall apply to any
33 person who commits animal neglect as provided in
34 section 717B.3:

35 (1) Except as provided in subparagraph (2) a
36 person who negligently or intentionally commits animal
37 neglect is guilty of a simple misdemeanor.

38 (2) A person who intentionally commits animal
39 neglect which results in serious injury to or the
40 death of an animal is guilty of an aggravated
41 misdemeanor for the first offense and a class "D"
42 felony for the second and subsequent offenses.

43 2. If a person is guilty of an aggravated
44 misdemeanor or class "D" felony, as provided in this
45 section, the sentencing order shall provide for all of
46 the following:

47 a. The person shall participate in counseling
48 according to the terms ordered by the court. The
49 counseling shall be provided by a licensed mental
50 health counselor appointed or approved by the court.

H-1227

-4-

H-1227

Page 5

1 The costs of counseling shall be paid by the person
2 and may be taxed as court costs. If the court
3 determines that the person is unable to make payment,
4 the court may order that the costs be paid in full or
5 in part from the county treasury.

6 b. The person shall not own, keep, or care for an
7 animal or any livestock for a suspensory period as
8 provided in this paragraph. The suspensory period
9 shall be for not less than five years and not more
10 than ten years as ordered by the court. If the person
11 is not incarcerated, the suspensory period shall begin
12 on the date of sentencing. If the person is
13 incarcerated, the suspensory period shall begin on the
14 date that the person's incarceration ends. A person
15 who violates a suspensory period condition is guilty
16 of a serious misdemeanor.

17 c. The person shall pay reasonable costs of the
18 investigation and prosecution of the case as ordered
19 by the court. The person shall also pay expenses
20 incurred in maintaining the animal as ordered by the
21 court, unless the expenses have been paid pursuant to
22 section 717B.5.

23 Sec. 16. NEW SECTION. 717B.5A FORFEITURE.

24 If a person is guilty of a class "D" felony as
25 provided in section 717B.4A, all animals or livestock
26 owned by the person shall be forfeited to the state,
27 to the extent that the animals or livestock have not
28 been disposed of as provided in section 717.5 or
29 717B.5. The animals or livestock shall be seized and
30 forfeited in the same manner as provided in chapter
31 809A. Animals or livestock which are destroyed shall
32 be destroyed only by a humane method, including
33 euthanasia as defined in section 162.2."

By CORMACK of Webster

H-1227 FILED MARCH 24, 1999

Adapted

3/31/99

(p 986)

HOUSE FILE 723

H-1275

1 Amend the amendment, H-1227, to House File 723, as
2 follows:

3 1. Page 1, by inserting after line 3 the
4 following:

5 ""Sec. ____ . NEW SECTION. 99B.22 USE OF IMMATURE
6 ANIMALS AS AWARDS OR PRIZES PROHIBITED -- PENALTY.

7 1. As used in this section "immature animal" means
8 an animal not old enough to reproduce, including but
9 not limited to a bunny, chick, kitten, or puppy.

10 2. A person licensed to conduct games of skill,
11 games of chance, or raffles pursuant to this chapter
12 shall not offer to give or give an immature animal as
13 a prize, gift, or door prize as a part of the conduct
14 of a game of skill, chance, or raffle.

15 3. The department shall adopt rules, pursuant to
16 chapter 17A, prohibiting a licensee under this chapter
17 from awarding or giving an immature animal as a gift,
18 prize, or door prize.

19 4. A person who violates this section or a rule
20 adopted pursuant to this section is guilty of a simple
21 misdemeanor.""

22 2. By renumbering as necessary.

By GRUNDBERG of Polk

H-1275 FILED MARCH 29, 1999

NOT GERMANE

(P.918)

WITHDRAWN

HOUSE FILE 723

H-1274

- 1 Amend the amendment, H-1227, to House File 723, as
2 follows:
- 3 1. Page 2, by striking lines 36 through 39 and
4 inserting the following: "and may be taxed as court
5 costs."
6 2. Page 2, line 41, by striking the words
7 "livestock or".
8 3. Page 2, line 43, by striking the word "five"
9 and inserting the following: "three".
10 4. Page 3, line 9, by striking the words "all
11 livestock or any" and inserting the following:
12 "each".
13 5. Page 3, line 11, by striking the words
14 "livestock or".
15 6. Page 3, line 12, by striking the figure and
16 word "717.5 or".
17 7. Page 3, line 13, by striking the words
18 "livestock or any".
19 8. Page 3, line 15, by striking the words
20 "Livestock or animals which are" and inserting the
21 following: "An animal which is".
22 9. Page 3, by striking lines 23 and 24.
23 10. Page 5, by striking lines 2 through 5 and
24 inserting the following: "and may be taxed as court
25 costs."
26 11. Page 5, lines 6 and 7, by striking the words
27 "an animal or any livestock" and inserting the
28 following: "any animal".
29 12. Page 5, line 9, by striking the word "five"
30 and inserting the following: "three".
31 13. Page 5, line 25, by striking the words "all
32 animals or livestock" and inserting the following:
33 "each animal".
34 14. Page 5, line 27, by striking the words
35 "animals or livestock have" and inserting the
36 following: "animal has".
37 15. Page 5, line 28, by striking the figure and
38 word "717.5 or".
39 16. Page 5, line 29, by striking the words
40 "animals or livestock" and inserting the following:
41 "animal".
42 17. Page 5, line 31, by striking the words
43 "Animals or livestock which are" and inserting the
44 following: "An animal which is".
45 18. By renumbering as necessary.

By DAVIS of Wapello
CORMACK of Webster
JAGER of Black Hawk
KETTERING of Sac

STEVENS of Dickinson
REYNOLDS of Van Buren
MYERS of Johnson
DOTZLER of Black Hawk

H-1274 FILED MARCH 29, 1999

WITHDRAWN

3/31/99

HOUSE FILE 723

H-1294

- 1 Amend the amendment, H-1227, to House File 723, as
2 follows:
- 3 1. Page 1, by striking lines 6 and 7.
4 2. Page 1, line 21, by inserting after the word
5 "causes" the following: "unjustified".
6 3. Page 1, by striking line 22, and inserting the
7 following: "suffering. A person is not guilty of
8 livestock abuse, if the person acts in a manner
9 consistent with customary".
- 10 4. Page 1, line 33, by striking the words "shall
11 immediately" and inserting the following: "may".
12 5. Page 1, line 34, by striking the figures and
13 word "717B.2 or 717B.3" and inserting the following:
14 "717.1A or 717.2".
15 6. By striking page 1, line 49 through page 2,
16 line 3, and inserting the following: "evidence of a
17 violation of section 717.1A or 717.2."
18 7. Page 2, by striking line 5 and inserting the
19 following: "there is a violation of section 717.1A or
20 717.2, a".
21 8. Page 2, by striking lines 36 through 39 and
22 inserting the following: "and may be taxed as court
23 costs."
24 9. By striking page 2, line 40, through page 3,
25 line 3, and inserting the following:
26 "____. The person shall pay expenses".
27 10. Page 3, by striking lines 7 through 17.
28 11. Page 3, by striking lines 23 and 24.
29 12. Page 3, by striking lines 31 through 34 and
30 inserting the following: "an animal owned by another
31 person; in any manner; including intentionally
32 poisoning the animal means that causes unjustified
33 pain or suffering. A person is not guilty of animal
34 abuse, if the person acts in a manner consistent with
35 customary animal husbandry. A person guilty of animal
36 abuse is guilty".
- 37 13. Page 4, line 4, by striking the words "shall
38 immediately" and inserting the following: "may".
39 14. Page 4, by striking lines 20 through 23 and
40 inserting the following: "evidence of a violation of
41 section 717B.2 or 717B.3".
42 15. Page 5, by striking lines 2 through 5 and
43 inserting the following: "and may be taxed as court
44 costs."
45 16. Page 5, lines 6 and 7, by striking the words
46 "an animal or any livestock" and inserting the
47 following: "any animal".
48 17. Page 5, line 9, by striking the word "five"
49 and inserting the following: "three".
50 18. Page 5, by striking lines 17 through 19 and

H-1294

-1-

H-1294

Page 2

- 1 inserting the following:
- 2 "____. The person shall pay expenses".
- 3 19. Page 5, line 25, by striking the words "all
- 4 animals or livestock" and inserting the following:
- 5 "each animal".
- 6 20. Page 5, line 27, by striking the words
- 7 "animals or livestock have" and inserting the
- 8 following: "animal has".
- 9 21. Page 5, line 28, by striking the figure and
- 10 word "717.5 or".
- 11 22. Page 5, line 29, by striking the words
- 12 "animals or livestock" and inserting the following:
- 13 "animal".
- 14 23. Page 5, line 31, by striking the words
- 15 "Animals or livestock which are" and inserting the
- 16 following: "An animal which is".
- 17 24. By renumbering as necessary.

By DAVIS of Wapello

H-1294 FILED MARCH 30, 1999

Adopted 3/31/99 (p.986)

HOUSE FILE 723

H-1295

- 1 Amend the amendment, H-1227, to House File 723 as
- 2 follows:
- 3 1. Page 1, by striking lines 45 through 47 and
- 4 inserting the following: "family services of the
- 5 department of human services."
- 6 2. Page 4, by striking lines 16 through 18 and
- 7 inserting the following: "family services of the
- 8 department of human services."

By WARNSTADT of Woodbury

H-1295 FILED MARCH 30, 1999

WITHDRAWN*3/31/99*

S. 4/5/99 *Judicia*
S. 2/21/00 *Amend/Do Pass w/s. 50.13*

HOUSE FILE **723**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 511)

(As Amended and Passed by the House, March 31, 1999)

Passed House, ^(P. 1422) Date 4-11-00 Passed Senate, ^(P. 1023) Date 4-5-00
Vote: Ayes 97 Nays 1 Vote: Ayes 46 Nays 4
Approved 4-28-00

Re. Passed 4/13/00

A BILL FOR ^(P. 1144) *vote 49-0*

1 An Act prohibiting the mistreatment of persons and animals and
2 providing for penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

ALL NEW LANGUAGE BY THE HOUSE

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20

HF 723

1 Section 1. Section 708.2A, Code 1999, is amended by
2 striking subsections 2 through 5, and inserting the following
3 in lieu thereof:

4 1. A person who commits domestic abuse assault is guilty
5 of a class "D" felony.

6 Sec. 2. Section 708.2A, subsection 6, paragraph a, Code
7 1999, is amended by striking the paragraph.

8 Sec. 3. Section 708.2A, subsection 6, paragraph b, Code
9 1999, is amended to read as follows:

10 b. A person convicted of violating ~~subsection 4~~ this
11 section shall be sentenced as provided under section 902.9,
12 subsection 4, committed to the custody of the director of the
13 department of corrections, and shall be assessed a fine of at
14 least seven hundred fifty dollars. The person shall be denied
15 parole or work release until the person has served a minimum
16 of one year of the person's sentence. Notwithstanding section
17 901.5, subsection 3, and section 907.3, subsection 3, the
18 person cannot receive a suspended or deferred sentence or a
19 deferred judgment; however, the person sentenced shall receive
20 credit for any time the person was confined in a jail or
21 detention facility following arrest.

22 Sec. 4. Section 708.2A, subsection 9, Code 1999, is
23 amended to read as follows:

24 9. ~~In-addition-to-the-mandatory-minimum-term-of~~
25 ~~confinement-imposed-by-subsection-6, paragraph "a", the~~ The
26 court shall order a person convicted under ~~subsection 2 or 3~~
27 this section to participate in a batterers' treatment program
28 as required under section 708.2B. In addition, as a condition
29 of deferring judgment or sentence pursuant to section 907.3,
30 the court shall order the person to participate in a
31 batterers' treatment program. The clerk of the district court
32 shall send a copy of the judgment or deferred judgment to the
33 judicial district department of correctional services.

34 Sec. 5. Section 717.1, Code 1999, is amended by adding the
35 following new subsections:

1 NEW SUBSECTION. 1A. "Licensed mental health counselor"
2 means a person licensed to practice mental health counseling
3 under chapters 147 and 154D.

4 NEW SUBSECTION. 7. "Warden" means animal warden as
5 defined in section 162.2.

6 Sec. 6. Section 717.1A, unnumbered paragraph 1, Code 1999,
7 is amended to read as follows:

8 A person is guilty of livestock abuse if the person
9 intentionally injures, maims, disfigures, or destroys
10 ~~livestock owned by another person, in any manner, including,~~
11 ~~but not limited to, intentionally doing any of the following:~~
12 ~~administering drugs or poisons to the livestock, or disabling~~
13 ~~the livestock by using a firearm or trap~~ by any means that
14 causes unjustified pain or suffering. A person is not guilty
15 of livestock abuse, if the person acts in a manner consistent
16 with customary animal husbandry practices. ~~A person guilty of~~
17 ~~livestock abuse commits an aggravated misdemeanor.~~ This
18 section shall not apply to any of the following:

19 Sec. 7. Section 717.1A, subsection 1, Code 1999, is
20 amended by striking the subsection.

21 Sec. 8. Section 717.2, subsection 1, paragraph c, Code
22 1999, is amended by striking the paragraph.

23 Sec. 9. Section 717.2, subsection 2, Code 1999, is amended
24 by striking the subsection.

25 Sec. 10. NEW SECTION. 717.3 REPORTING REQUIRED.

26 1. A person may report an incident involving a violation
27 of section 717.1A or 717.2 to a law enforcement officer, if
28 all of the following apply:

29 a. The person is any of the following:

30 (1) A warden.

31 (2) A veterinarian licensed pursuant to chapter 169.

32 (3) An employee of the department of agriculture and land
33 stewardship who regularly inspects the premises of
34 agricultural operations.

35 (4) An employee of the division of child and family

1 services of the department of human services or a person who
2 provides child welfare services as provided in section 235.1.

3 b. The person witnesses or has other credible evidence of
4 a violation of section 717.1A or 717.2.

5 2. If there is reasonable grounds to believe that there is
6 a violation of section 717.1A or 717.2, a law enforcement
7 officer shall conduct an investigation and report any
8 violation to the county attorney.

9 Sec. 11. NEW SECTION. 717.4 PENALTIES.

10 1. a. Any person who commits livestock abuse as provided
11 in section 717.1A, is guilty of a class "D" felony.

12 b. The following penalties shall apply to any person who
13 commits livestock neglect as provided in section 717.2:

14 (1) Except as provided in subparagraph (2), a person who
15 negligently or intentionally commits livestock neglect is
16 guilty of a simple misdemeanor.

17 (2) A person who intentionally commits the offense of
18 livestock neglect which results in serious injury to or the
19 death of livestock is guilty of an aggravated misdemeanor for
20 the first offense and a class "D" felony for the second and
21 subsequent offenses. A person is not guilty of more than one
22 offense of livestock neglect, punishable as provided in this
23 subparagraph, when care or sustenance is not provided to
24 multiple head of livestock during any period of uninterrupted
25 neglect.

26 2. If a person is guilty of a class "D" felony as provided
27 in this section, the sentencing order shall provide for all of
28 the following:

29 a. The person shall participate in counseling according to
30 the terms ordered by the court. The counseling shall be
31 provided by a licensed mental health counselor appointed or
32 approved by the court. The costs of counseling shall be paid
33 by the person and may be taxed as court costs.

34 b. The person shall pay expenses incurred in maintaining
35 the livestock as ordered by the court, unless the expenses

1 have been paid pursuant to section 717.5.

2 Sec. 12. Section 717B.1, Code 1999, is amended by adding
3 the following new subsections:

4 NEW SUBSECTION. 3A. "Licensed mental health counselor"
5 means a person licensed to practice mental health counseling
6 under chapters 147 and 154D.

7 NEW SUBSECTION. 6. "Warden" means the same as animal
8 warden as defined in section 162.2.

9 Sec. 13. Section 717B.2, unnumbered paragraph 1, Code
10 1999, is amended to read as follows:

11 A person is guilty of animal abuse if the person
12 intentionally injures, maims, disfigures, or destroys an
13 animal owned by another person, in any manner, including
14 intentionally poisoning the animal means that causes
15 unjustified pain or suffering. A person is not guilty of
16 animal abuse, if the person acts in a manner consistent with
17 customary animal husbandry. A person guilty of animal abuse
18 is guilty of an aggravated misdemeanor. This section shall
19 not apply to any of the following:

20 Sec. 14. Section 717B.2, subsection 1, Code 1999, is
21 amended by striking the subsection.

22 Sec. 15. Section 717B.3, subsection 1, Code 1999, is
23 amended to read as follows:

24 1. A person who impounds or confines, in any place, an
25 animal is guilty of animal neglect, if the person does any of
26 the following: fails to supply the animal during confinement
27 with a sufficient quantity of food or water; fails to provide
28 a confined dog or cat with adequate shelter; or tortures,
29 deprives of the animal necessary sustenance, mutilates, beats,
30 or kills an animal by any means which causes unjustified pain,
31 distress, or suffering.

32 Sec. 16. Section 717B.3, subsection 3, Code 1999, is
33 amended by striking the subsection.

34 Sec. 17. NEW SECTION. 717B.3A REPORTING REQUIRED.

35 1. A person may report an incident or condition involving

1 a violation of section 717B.2 or 717B.3 to a law enforcement
2 officer, if all of the following apply:

3 a. The person is any of the following:

4 (1) A warden.

5 (2) A veterinarian licensed pursuant to chapter 169.

6 (3) An employee of the department of agriculture and land
7 stewardship who regularly inspects commercial establishments
8 as provided in chapter 162.

9 (4) An employee of the division of child and family
10 services of the department of human services or a person who
11 provides child welfare services as provided in section 235.1.

12 b. The person witnesses or has other credible evidence of
13 a violation of section 717B.2 or 717B.3.

14 2. If there is reasonable grounds to believe that there is
15 a violation of this section, a law enforcement officer shall
16 conduct an investigation and report any violation to the
17 county attorney.

18 Sec. 18. NEW SECTION. 717B.4A PENALTIES.

19 1. a. Any person who commits animal abuse as provided in
20 section 717B.2 is guilty of a class "D" felony.

21 b. The following penalties shall apply to any person who
22 commits animal neglect as provided in section 717B.3:

23 (1) Except as provided in subparagraph (2) a person who
24 negligently or intentionally commits animal neglect is guilty
25 of a simple misdemeanor.

26 (2) A person who intentionally commits animal neglect
27 which results in serious injury to or the death of an animal
28 is guilty of an aggravated misdemeanor for the first offense
29 and a class "D" felony for the second and subsequent offenses.

30 2. If a person is guilty of an aggravated misdemeanor or
31 class "D" felony, as provided in this section, the sentencing
32 order shall provide for all of the following:

33 a. The person shall participate in counseling according to
34 the terms ordered by the court. The counseling shall be
35 provided by a licensed mental health counselor appointed or

1 approved by the court. The costs of counseling shall be paid
2 by the person and may be taxed as court costs.

3 b. The person shall not own, keep, or care for any animal
4 for a suspensory period as provided in this paragraph. The
5 suspensory period shall be for not less than three years and
6 not more than ten years as ordered by the court. If the
7 person is not incarcerated, the suspensory period shall begin
8 on the date of sentencing. If the person is incarcerated, the
9 suspensory period shall begin on the date that the person's
10 incarceration ends. A person who violates a suspensory period
11 condition is guilty of a serious misdemeanor.

12 c. The person shall pay expenses incurred in maintaining
13 the animal as ordered by the court, unless the expenses have
14 been paid pursuant to section 717B.5.

15 Sec. 19. NEW SECTION. 717B.5A FORFEITURE.

16 If a person is guilty of a class "D" felony as provided in
17 section 717B.4A, each animal owned by the person shall be
18 forfeited to the state, to the extent that the animal has not
19 been disposed of as provided in section 717B.5. The animal
20 shall be seized and forfeited in the same manner as provided
21 in chapter 809A. An animal which is destroyed shall be
22 destroyed only by a humane method, including euthanasia as
23 defined in section 162.2.

24
25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 723

S-5013

1 Amend House File 723, as amended, passed, and
2 reprinted by the House, as follows:
3 1. By striking everything after the enacting
4 clause and inserting the following:
5 "Section 1. NEW SECTION. 717B.3A ANIMAL TORTURE.
6 1. A person is guilty of animal torture,
7 regardless of whether the person is the owner of the
8 animal, if the person acts with a depraved or sadistic
9 intent to inflict on the animal severe physical pain
10 in order to prolong suffering or death.
11 2. This section shall not apply to any of the
12 following:
13 a. A person acting to carry out an order issued by
14 a court.
15 b. A licensed veterinarian practicing veterinary
16 medicine as provided in chapter 169.
17 c. A person carrying out a practice that is
18 consistent with animal husbandry practices.
19 d. A person acting in order to carry out another
20 provision of law which allows the conduct.
21 e. A person taking, hunting, trapping, or fishing
22 for a wild animal as provided in chapter 481A.
23 f. A person acting to protect the person's
24 property from a wild animal as defined in section
25 481A.1.
26 g. A person acting to protect a person from injury
27 or death caused by a wild animal as defined in section
28 481A.1.
29 h. A person reasonably acting to protect the
30 person's property from damage caused by an unconfined
31 animal.
32 i. A person reasonably acting to protect a person
33 from injury or death caused by an unconfined animal.
34 j. A local authority reasonably acting to destroy
35 an animal, if at the time of the destruction, the
36 owner of the animal is absent or unable to care for
37 the animal, and the animal is permanently distressed
38 by disease or injury to a degree that would result in
39 severe and prolonged suffering.
40 k. An institution, as defined in section 145B.1,
41 or a research facility, as defined in section 162.2,
42 provided that the institution or research facility
43 performs functions within the scope of accepted
44 practices and disciplines associated with the
45 institution or research facility.
46 3. A person guilty of animal torture is guilty of
47 an aggravated misdemeanor for the first offense and
48 guilty of a class "D" felony for a second or
49 subsequent offense. If a person is guilty of animal
50 torture, as provided in this subsection, the

S-5013

-1-

S-5013

Page 2

1 sentencing order shall provide that the person
2 participate in counseling according to terms ordered
3 by the court. However, a person shall not be guilty
4 of more than one offense of animal torture, when the
5 abuse occurs to multiple animals during any
6 uninterrupted period."

7 2. Title page, line 1, by striking the words
8 "persons and".

By COMMITTEE ON JUDICIARY
ANDY McKEAN, CHAIRPERSON

S-5013 FILED FEBRUARY 21, 2000

0/0
4-5-00
(p.1023)

HOUSE FILE 723

S-5191

1 Amend the amendment, S-5013, to House File 723, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. By striking page 1, line 5, through page 2,
5 line 8, and inserting the following:

6 ""Sec. ____ . NEW SECTION. 717.3 LIVESTOCK
7 TORTURE.

8 1. a. A person is guilty of livestock torture,
9 regardless of whether the person is the owner of the
10 livestock, if the person inflicts an injury on the
11 livestock which causes extreme physical pain to the
12 livestock, or subjects the livestock to a condition
13 which causes extreme physical pain, with the purpose
14 of increasing or prolonging the extreme physical pain.

15 b. As used in this subsection, "extreme physical
16 pain" includes severe suffering or agony.

17 2. This section shall not apply to any of the
18 following:

19 a. A person acting to carry out an order issued by
20 a court.

21 b. A licensed veterinarian while practicing
22 veterinary medicine as provided in chapter 169.

23 c. A person while carrying out a practice that is
24 consistent with customary animal husbandry practices.

25 d. A person acting reasonably to protect a person
26 from injury or death caused by unconfined livestock.

27 e. A local authority acting reasonably to destroy
28 livestock, if at the time of the destruction, the
29 owner of the livestock is absent or unable to care for
30 the livestock, and the livestock is permanently
31 distressed by disease or injury to a degree that would
32 result in severe and prolonged suffering.

33 f. An institution, as defined in section 145B.1,
34 or a research facility, as defined in section 162.2,
35 provided that the institution or research facility
36 performs functions within the scope of accepted
37 practices and disciplines associated with the
38 institution or research facility.

39 3. A person guilty of livestock torture is guilty
40 of a class "D" felony. If a person is guilty of
41 livestock torture, the sentencing order shall require
42 that the person participate in counseling according to
43 terms ordered by the court.

44 Sec. ____ . NEW SECTION. 717B.5A ANIMAL TORTURE.

45 1. a. A person is guilty of animal torture,
46 regardless of whether the person is the owner of the
47 animal, if the person inflicts an injury to the animal
48 which causes extreme physical pain to the animal, or
49 subjects the animal to a condition which causes
50 extreme physical pain, with the purpose of increasing

S-5191

S-5191

Page 2

1 or prolonging the extreme physical pain.
 2 b. As used in this subsection, "extreme physical
 3 pain" includes severe suffering or agony.
 4 2. This section shall not apply to any of the
 5 following:
 6 a. A person acting to carry out an order issued by
 7 a court.
 8 b. A licensed veterinarian while practicing
 9 veterinary medicine as provided in chapter 169.
 10 c. A person while carrying out a practice that is
 11 consistent with customary animal husbandry practices.
 12 d. A person taking, hunting, trapping, or fishing
 13 for a wild animal as provided in chapter 481A.
 14 e. A person acting reasonably to protect the
 15 person's property from a wild animal as defined in
 16 section 481A.1.
 17 f. A person acting reasonably to protect a person
 18 from injury or death caused by a wild animal as
 19 defined in section 481A.1.
 20 g. A person acting reasonably to protect a person
 21 from injury or death caused by an unconfined animal.
 22 h. A local authority acting reasonably to destroy
 23 an animal, if at the time of the destruction, the
 24 owner of the animal is absent or unable to care for
 25 the animal, and the animal is permanently distressed
 26 by disease or injury to a degree that would result in
 27 severe and prolonged suffering.
 28 i. An institution, as defined in section 145B.1,
 29 or a research facility, as defined in section 162.2,
 30 provided that the institution or research facility
 31 performs functions within the scope of accepted
 32 practices and disciplines associated with the
 33 institution or research facility.
 34 3. A person guilty of animal torture is guilty of
 35 a class "D" felony. If a person is guilty of animal
 36 torture, the sentencing order shall require that the
 37 person participate in counseling according to terms
 38 ordered by the court."
 39 _____. Title page, line 1, by striking the words
 40 "persons and" and inserting the following: "livestock
 41 and other"."

By MARY A. LUNDBY
MATT McCOY

0/0 4/5/00 (p. 1023)

S-5191 FILED MARCH 21, 2000

HOUSE FILE 723

S-5201

1 Amend the amendment, S-5013, to House File 723, as
 2 amended, passed, and reprinted by the House, as
 3 follows:
 4 1. Page 2, by striking lines 3 through 6 and
 5 inserting the following: "by the court."

0/0 4/5/00 (p. 1023) By MARY A. LUNDBY

S-5201 FILED MARCH 21, 2000

HOUSE FILE 723

S-5224

1 Amend the amendment, S-5013, to House File 723, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. By striking page 1, line 5, through page 2,
5 line 8, and inserting the following:

6 ""Sec. ____ . NEW SECTION. 717.3 LIVESTOCK
7 TORTURE.

8 1. A person is guilty of livestock torture,
9 regardless of whether the person is the owner of the
10 livestock, if the person acts with willful and wanton
11 intent to inflict on the livestock severe physical
12 pain in order to cause suffering or death.

13 2. This section shall not apply to any of the
14 following:

15 a. A person acting to carry out an order issued by
16 a court.

17 b. A licensed veterinarian while practicing
18 veterinary medicine as provided in chapter 169.

19 c. A person while carrying out a practice that is
20 consistent with customary animal husbandry practices.

21 d. A person acting reasonably to protect a person
22 from injury or death caused by unconfined livestock.

23 e. A local authority acting reasonably to destroy
24 livestock, if at the time of the destruction, the
25 owner of the livestock is absent or unable to care for
26 the livestock, and the livestock is permanently
27 distressed by disease or injury to a degree that would
28 result in severe and prolonged suffering.

29 f. An institution, as defined in section 145B.1,
30 or a research facility, as defined in section 162.2,
31 provided that the institution or research facility
32 performs functions within the scope of accepted
33 practices and disciplines associated with the
34 institution or research facility.

35 3. A person guilty of livestock torture is guilty
36 of a class "D" felony. If a person is guilty of
37 livestock torture, the sentencing order shall require
38 that the person participate in counseling according to
39 terms ordered by the court.

40 Sec. ____ . NEW SECTION. 717B.5A ANIMAL TORTURE.

41 1. A person is guilty of animal torture,
42 regardless of whether the person is the owner of the
43 animal, if the person acts with willful and wanton
44 intent to inflict on the animal severe physical pain
45 in order to cause suffering or death.

46 2. This section shall not apply to any of the
47 following:

48 a. A person acting to carry out an order issued by
49 a court.

50 b. A licensed veterinarian while practicing

S-5224

-1-

S-5224

Page 2

1 veterinary medicine as provided in chapter 169.

2 c. A person while carrying out a practice that is
3 consistent with customary animal husbandry practices.

4 d. A person taking, hunting, trapping, or fishing
5 for a wild animal as provided in chapter 481A.

6 e. A person acting reasonably to protect the
7 person's property from a wild animal as defined in
8 section 481A.1.

9 f. A person acting reasonably to protect a person
10 from injury or death caused by a wild animal as
11 defined in section 481A.1.

12 g. A person acting reasonably to protect a person
13 from injury or death caused by an unconfined animal.

14 h. A local authority acting reasonably to destroy
15 an animal, if at the time of the destruction, the
16 owner of the animal is absent or unable to care for
17 the animal, and the animal is permanently distressed
18 by disease or injury to a degree that would result in
19 severe and prolonged suffering.

20 i. An institution, as defined in section 145B.1,
21 or a research facility, as defined in section 162.2,
22 provided that the institution or research facility
23 performs functions within the scope of accepted
24 practices and disciplines associated with the
25 institution or research facility.

26 3. A person guilty of animal torture is guilty of
27 a class "D" felony. If a person is guilty of animal
28 torture, the sentencing order shall require that the
29 person participate in counseling according to terms
30 ordered by the court."

31 _____. Title page, line 1, by striking the words
32 "persons and" and inserting the following: "livestock
33 and other"."

By MARY A. LUNDBY
MATT MCCOY

S-5224 FILED MARCH 22, 2000

0/0
4/5/00
(p. 1023)

SENATE AMENDMENT TO HOUSE FILE 723

H-8746

1 Amend House File 723, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 717.3 LIVESTOCK
6 TORTURE.

7 1. A person is guilty of livestock torture,
8 regardless of whether the person is the owner of the
9 livestock, if the person acts with a depraved or
10 sadistic intent to inflict on the livestock severe
11 physical pain in order to prolong suffering or death.

12 2. This section shall not apply to any of the
13 following:

14 a. A person acting to carry out an order issued by
15 a court.

16 b. A licensed veterinarian while practicing
17 veterinary medicine as provided in chapter 169.

18 c. A person while carrying out a practice that is
19 consistent with customary animal husbandry practices.

20 d. A person acting reasonably to protect a person
21 from injury or death caused by unconfined livestock.

22 e. A local authority acting reasonably to destroy
23 livestock, if at the time of the destruction, the
24 owner of the livestock is absent or unable to care for
25 the livestock, and the livestock is permanently
26 distressed by disease or injury to a degree that would
27 result in severe and prolonged suffering.

28 f. An institution, as defined in section 145B.1,
29 or a research facility, as defined in section 162.2,
30 provided that the institution or research facility
31 performs functions within the scope of accepted
32 practices and disciplines associated with the
33 institution or research facility.

34 3. A person guilty of livestock torture is guilty
35 of an aggravated misdemeanor for the first offense and
36 guilty of a class "D" felony for a second or
37 subsequent offense. If a person is guilty of
38 livestock torture, as provided in this subsection, the
39 sentencing order shall provide that the person
40 participate in counseling according to the terms
41 ordered by the court.

42 Sec. 2. NEW SECTION. 717B.3A ANIMAL TORTURE.

43 1. A person is guilty of animal torture,
44 regardless of whether the person is the owner of the
45 animal, if the person acts with a depraved or sadistic
46 intent to inflict on the animal severe physical pain
47 in order to prolong suffering or death.

48 2. This section shall not apply to any of the
49 following:

50 a. A person acting to carry out an order issued by

H-8746

H-8746

Page 2

- 1 a court.
- 2 b. A licensed veterinarian practicing veterinary
3 medicine as provided in chapter 169.
- 4 c. A person carrying out a practice that is
5 consistent with animal husbandry practices.
- 6 d. A person acting in order to carry out another
7 provision of law which allows the conduct.
- 8 e. A person taking, hunting, trapping, or fishing
9 for a wild animal as provided in chapter 481A.
- 10 f. A person acting to protect the person's
11 property from a wild animal as defined in section
12 481A.1.
- 13 g. A person acting to protect a person from injury
14 or death caused by a wild animal as defined in section
15 481A.1.
- 16 h. A person reasonably acting to protect the
17 person's property from damage caused by an unconfined
18 animal.
- 19 i. A person reasonably acting to protect a person
20 from injury or death caused by an unconfined animal.
- 21 j. A local authority reasonably acting to destroy
22 an animal, if at the time of the destruction, the
23 owner of the animal is absent or unable to care for
24 the animal, and the animal is permanently distressed
25 by disease or injury to a degree that would result in
26 severe and prolonged suffering.
- 27 k. An institution, as defined in section 145B.1,
28 or a research facility, as defined in section 162.2,
29 provided that the institution or research facility
30 performs functions within the scope of accepted
31 practices and disciplines associated with the
32 institution or research facility.
- 33 3. A person guilty of animal torture is guilty of
34 an aggravated misdemeanor for the first offense and
35 guilty of a class "D" felony for a second or
36 subsequent offense. If a person is guilty of animal
37 torture, as provided in this subsection, the
38 sentencing order shall provide that the person
39 participate in counseling according to terms ordered
40 by the court."
- 41 2. Title page, line 1, by striking the words
42 "persons and".

RECEIVED FROM THE SENATE

H-8746 FILED APRIL 5, 2000

House Counsel
41-11-00
(1421)

HOUSE FILE 723

H-8823

1 Amend the Senate amendment, H-8746, to House File
2 723, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by inserting after line 4, the
5 following:

6 ""Section 1. Section 232.8, subsection 3, Code
7 1999, is amended by adding the following new
8 unnumbered paragraph:

9 NEW UNNUMBERED PARAGRAPH. This subsection does not
10 apply to a child under the age of seventeen who is
11 alleged to have committed livestock torture as
12 provided in section 717.3 or animal torture as
13 provided in section 717B.3A."

14 2. Page 1, by striking lines 9 through 11, and
15 inserting the following: "livestock, if the person
16 inflicts upon the livestock severe physical pain with
17 a depraved or sadistic intent to cause prolonged
18 suffering or death."

19 3. Page 1, by striking lines 34 through 41, and
20 inserting the following:

21 " ____ . a. The following shall apply to a person
22 who commits livestock torture:

23 (1) For the first conviction, the person is guilty
24 of an aggravated misdemeanor. The sentencing order
25 shall provide that the person submit to psychological
26 evaluation and treatment according to terms required
27 by the court. The costs of the evaluation and
28 treatment shall be paid by the person. In addition,
29 the sentencing order shall provide that the person
30 complete a community work requirement, which may
31 include a work requirement performed at an animal
32 shelter or pound as defined in section 162.2,
33 according to terms required by the court.

34 (2) For a second or subsequent conviction, the
35 person is guilty of a class "D" felony. The
36 sentencing order shall provide that the person submit
37 to a psychological evaluation and treatment according
38 to terms required by the court. The costs of the
39 psychological evaluation and treatment shall be paid
40 by the person.

41 b. The juvenile court shall have exclusive
42 original jurisdiction in proceedings concerning a
43 child who is alleged to have committed livestock
44 torture, as provided in section 232.8. The juvenile
45 court shall not waive jurisdiction of a child under
46 the age of seventeen who is alleged to have committed
47 the offense."

48 4. Page 1, by striking lines 45 through 47, and
49 inserting the following: "animal, if the person
50 inflicts upon the animal severe physical pain with a

H-8823

H-8823

Page 2

1 deprived or sadistic intent to cause prolonged
2 suffering or death."

3 5. Page 2, by striking lines 33 through 40, and
4 inserting the following:

5 "____. The following shall apply to a person who
6 commits animal torture:

7 (1) For the first conviction, the person is guilty
8 of an aggravated misdemeanor. The sentencing order
9 shall provide that the person submit to psychological
10 evaluation and treatment according to terms required
11 by the court. The costs of the evaluation and
12 treatment shall be paid by the person. In addition,
13 the sentencing order shall provide that the person
14 complete a community work requirement, which may
15 include a work requirement performed at an animal
16 shelter or pound, as defined in section 162.2,
17 according to terms required by the court.

18 (2) For a second or subsequent conviction, the
19 person is guilty of a class "D" felony. The
20 sentencing order shall provide that the person submit
21 to psychological evaluation and treatment according to
22 terms required by the court. The costs of the
23 psychological evaluation and treatment shall be paid
24 by the person.

25 b. The juvenile court shall have exclusive
26 original jurisdiction in proceedings concerning a
27 child who is alleged to have committed animal torture,
28 as provided in section 232.8. The juvenile court
29 shall not waive jurisdiction of a child under the age
30 of seventeen who is alleged to have committed the
31 offense."

By DAVIS of Wapello
KREIMAN of Davis
MASCHER of Johnson

PARMENTER of Story
REYNOLDS of Van Buren
CORMACK of Webster

H-8823 FILED APRIL 11, 2000

W/D
4/11/00 (p. 1417)

HOUSE FILE 723

H-8842

1 Amend the Senate amendment, H-8746, to House File
2 723, as amended, passed, and reprinted by the House,
3 as follows:
4 1. Page 1, by inserting after line 4, the
5 following:
6 "Sec. ____ . Section 717.1, Code 1999, is amended by
7 adding the following new subsection:
8 NEW SUBSECTION. 00. "Customary animal husbandry
9 practice" means a practice commonly associated with
10 the care of livestock, including but not limited to
11 any of the following:
12 a. Confining livestock in a building, lot, pen, or
13 chute.
14 b. Loading, unloading, or transporting livestock.
15 c. Identifying livestock by marking or branding,
16 including by any manner provided for in chapter 169A,
17 tagging, or ear notching.
18 d. Castrating, docking, dehorning or ringing
19 livestock, trimming livestock hooves; declawing or
20 debeaking poultry; shoeing equines; or removing
21 swine's needle teeth.
22 e. Implanting an identification or monitoring
23 device below the hide or skin of livestock.
24 f. Implanting a substance or compound below the
25 hide or skin of livestock, or applying a substance or
26 compound topically, for use in promoting health or
27 growth.
28 g. Shearing sheep or milking cows or goats.
29 h. Testing livestock for disease or pregnancy,
30 including by drawing blood.
31 i. Administering a vaccine, hormone, or
32 prescription drug to livestock.
33 j. Performing measures, which may involve surgical
34 procedures, relating to the health or procreation of
35 livestock, including but not limited to collecting or
36 inseminating semen, lancing or draining abscesses,
37 treating prolapses, suturing hernias, inserting
38 urological catheters, or removing abnormal or
39 supernumerary teats.
40 k. Performing any other such practice that does
41 not normally inflict greater discomfort to livestock
42 than provided in this subsection."

By TEIG of Hamilton
 ARNOLD of Lucas
 HUSEMAN of Cherokee
 BARRY of Harrison
 BRAUNS of Muscatine
 SUKUP of Franklin
 KLEMME of Plymouth
 HOLMES of Scott
 EDDIE of Buena Vista
 HORBACH of Tama
 RAYHONS of Hancock
 DOLECHECK of Ringgold

CARROLL of Poweshiek
 HOUSER of Pottawattamie
 HAHN of Muscatine
 GREINER of Washington
 KETTERING of Sac
 BAUDLER of Adair
 ALONS of Sioux
 DRAKE of Pottawattamie
 BOGGESS of Page
 HOFFMAN of Crawford
 JOHNSON of Osceola

H-8842 FILED APRIL 11, 2000

0/0
4/11/00 (p. 1421)

HOUSE FILE 723

H-8813

- 1 Amend the Senate amendment, H-8746, to House File
- 2 723, as amended, passed, and reprinted by the House.
- 3 as follows:
- 4 1. Page 1, by striking lines 5 through 41.
- 5 2. By renumbering as necessary.

By GARMAN of Story

H-8813 FILED APRIL 11, 2000

Adopted
4-11-00
(p. 1421)

HOUSE FILE 723

H-8852

1 Amend the Senate amendment, H-8746, to House File
2 723, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by inserting after line 4, the
5 following:

6 ""Section 1. Section 232.8, subsection 1,
7 paragraph c, Code 1999, is amended to read as follows:

8 c. Violations by a child, age sixteen or older,
9 which subject the child to the provisions of section
10 124.401, subsection 1, paragraph "e" or "f", or
11 violations of section 723A.2 which involve a violation
12 of chapter 724, or violation of chapter 724 which
13 constitutes a felony, or violations which constitute a
14 forcible felony are excluded from the jurisdiction of
15 the juvenile court and shall be prosecuted as
16 otherwise provided by law unless the court transfers
17 jurisdiction of the child to the juvenile court upon
18 motion and for good cause. A child over whom
19 jurisdiction has not been transferred to the juvenile
20 court, and who is convicted of a violation excluded
21 from the jurisdiction of the juvenile court under this
22 paragraph, shall be sentenced pursuant to section
23 124.401B, 902.9, or 903.1. Notwithstanding any other
24 provision of the Code to the contrary, the court may
25 accept from a child a plea of guilty, or may instruct
26 the jury on a lesser included offense to the offense
27 excluded from the jurisdiction of the juvenile court
28 under this section, in the same manner as regarding an
29 adult. However, the juvenile court shall have
30 exclusive original jurisdiction in a proceeding
31 concerning an offense of livestock torture as provided
32 in section 717.3 or animal torture as provided in
33 section 717B.3A alleged to have been committed by a
34 child under the age of seventeen.

35 Sec. _____. Section 232.8, subsection 3, Code 1999,
36 is amended by adding the following new unnumbered
37 paragraph:

38 NEW UNNUMBERED PARAGRAPH. This subsection does not
39 apply in a proceeding concerning an offense of
40 livestock torture as provided in section 717.3 or
41 animal torture as provided in section 717B.3A alleged
42 to have been committed by a child under the age of
43 seventeen."

0/0

44 2. Page 1, by striking lines 9 through 11, and
45 inserting the following: "livestock, if the person
46 inflicts upon the livestock severe physical pain with
47 a depraved or sadistic intent to cause prolonged
48 suffering or death."

49 3. Page 1, by striking lines 34 through 41, and
50 inserting the following:

H-8852

H-8852

Page 2

1 "____. a. The following shall apply to a person
2 who commits livestock torture:

3 (1) For the first conviction, the person is guilty
4 of an aggravated misdemeanor. The sentencing order
5 shall provide that the person submit to psychological
6 evaluation and treatment according to terms required
7 by the court. The costs of the evaluation and
8 treatment shall be paid by the person. In addition,
9 the sentencing order shall provide that the person
10 complete a community work requirement, which may
11 include a work requirement performed at an animal
12 shelter or pound as defined in section 162.2,
13 according to terms required by the court.

14 (2) For a second or subsequent conviction, the
15 person is guilty of a class "D" felony. The
16 sentencing order shall provide that the person submit
17 to a psychological evaluation and treatment according
18 to terms required by the court. The costs of the
19 psychological evaluation and treatment shall be paid
20 by the person.

21 b. The juvenile court shall have exclusive
22 original jurisdiction in a proceeding concerning a
23 child who is alleged to have committed livestock
24 torture, in the manner provided in section 232.8. The
25 juvenile court shall not waive jurisdiction in a
26 proceeding concerning an offense alleged to have been
27 committed by a child under the age of seventeen."

28 4. Page 1, by striking lines 45 through 47, and
29 inserting the following: "animal, if the person
30 inflicts upon the animal severe physical pain with a
31 depraved or sadistic intent to cause prolonged
32 suffering or death."

33 5. Page 2, by striking lines 33 through 40, and
34 inserting the following:

35 "____. The following shall apply to a person who
36 commits animal torture:

37 (1) For the first conviction, the person is guilty
38 of an aggravated misdemeanor. The sentencing order
39 shall provide that the person submit to psychological
40 evaluation and treatment according to terms required
41 by the court. The costs of the evaluation and
42 treatment shall be paid by the person. In addition,
43 the sentencing order shall provide that the person
44 complete a community work requirement, which may
45 include a work requirement performed at an animal
46 shelter or pound, as defined in section 162.2,
47 according to terms required by the court.

48 (2) For a second or subsequent conviction, the
49 person is guilty of a class "D" felony. The
50 sentencing order shall provide that the person submit

H-8852

-2-

H-8852

Page 3

1 to psychological evaluation and treatment according to
2 terms required by the court. The costs of the
3 psychological evaluation and treatment shall be paid
4 by the person.

5 b. The juvenile court shall have exclusive
6 original jurisdiction in a proceeding concerning a
7 child who is alleged to have committed animal torture,
8 in the manner provided in section 232.8. The juvenile
9 court shall not waive jurisdiction in a proceeding
10 concerning an offense alleged to have been committed
11 by a child under the age of seventeen."

By DAVIS of Wapello

KREIMAN of Davis

MASCHER of Johnson

PARMENTER of Story

REYNOLDS of Van Buren

CORMACK of Webster

H-8852 FILED APRIL 11, 2000

adopted

4-11-00 (p. 1420)

Lines 44-50 Page 1

out of order

Lines 1-27 Page 2

out of order

Correction

4/12/00

p. 1461

HOUSE FILE 723

S-5342

1 Amend House File 723, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 717.3 LIVESTOCK
6 TORTURE.

7 1. A person is guilty of livestock torture,
8 regardless of whether the person is the owner of the
9 livestock, if the person acts with a depraved or
10 sadistic intent to inflict on the livestock severe
11 physical pain in order to prolong suffering or death.

12 2. This section shall not apply to any of the
13 following:

14 a. A person acting to carry out an order issued by
15 a court.

16 b. A licensed veterinarian while practicing
17 veterinary medicine as provided in chapter 169.

18 c. A person while carrying out a practice that is
19 consistent with customary animal husbandry practices.

20 d. A person acting reasonably to protect a person
21 from injury or death caused by unconfined livestock.

22 e. A local authority acting reasonably to destroy
23 livestock, if at the time of the destruction, the
24 owner of the livestock is absent or unable to care for
25 the livestock, and the livestock is permanently
26 distressed by disease or injury to a degree that would
27 result in severe and prolonged suffering.

28 f. An institution, as defined in section 145B.1,
29 or a research facility, as defined in section 162.2,
30 provided that the institution or research facility
31 performs functions within the scope of accepted
32 practices and disciplines associated with the
33 institution or research facility.

34 3. A person guilty of livestock torture is guilty
35 of an aggravated misdemeanor for the first offense and
36 guilty of a class "D" felony for a second or
37 subsequent offense. If a person is guilty of
38 livestock torture, as provided in this subsection, the
39 sentencing order shall provide that the person
40 participate in counseling according to the terms
41 ordered by the court.

42 Sec. 2. NEW SECTION. 717B.3A ANIMAL TORTURE.

43 1. A person is guilty of animal torture,
44 regardless of whether the person is the owner of the
45 animal, if the person acts with a depraved or sadistic
46 intent to inflict on the animal severe physical pain
47 in order to prolong suffering or death.

48 2. This section shall not apply to any of the
49 following:

50 a. A person acting to carry out an order issued by

S-5342

S-5342

Page 2

- 1 a court.
- 2 b. A licensed veterinarian practicing veterinary
- 3 medicine as provided in chapter 169.
- 4 c. A person carrying out a practice that is
- 5 consistent with animal husbandry practices.
- 6 d. A person acting in order to carry out another
- 7 provision of law which allows the conduct.
- 8 e. A person taking, hunting, trapping, or fishing
- 9 for a wild animal as provided in chapter 481A.
- 10 f. A person acting to protect the person's
- 11 property from a wild animal as defined in section
- 12 481A.1.
- 13 g. A person acting to protect a person from injury
- 14 or death caused by a wild animal as defined in section
- 15 481A.1.
- 16 h. A person reasonably acting to protect the
- 17 person's property from damage caused by an unconfined
- 18 animal.
- 19 i. A person reasonably acting to protect a person
- 20 from injury or death caused by an unconfined animal.
- 21 j. A local authority reasonably acting to destroy
- 22 an animal, if at the time of the destruction, the
- 23 owner of the animal is absent or unable to care for
- 24 the animal, and the animal is permanently distressed
- 25 by disease or injury to a degree that would result in
- 26 severe and prolonged suffering.
- 27 k. An institution, as defined in section 145B.1,
- 28 or a research facility, as defined in section 162.2,
- 29 provided that the institution or research facility
- 30 performs functions within the scope of accepted
- 31 practices and disciplines associated with the
- 32 institution or research facility.
- 33 3. A person guilty of animal torture is guilty of
- 34 an aggravated misdemeanor for the first offense and
- 35 guilty of a class "D" felony for a second or
- 36 subsequent offense. If a person is guilty of animal
- 37 torture, as provided in this subsection, the
- 38 sentencing order shall provide that the person
- 39 participate in counseling according to terms ordered
- 40 by the court."
- 41 2. Title page, line 1, by striking the words
- 42 "persons and".

By DAVID MILLER
 MARY A. LUNDBY
 MATT McCOY

S-5342 FILED APRIL 5, 2000
 ADOPTED

(p.1022)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 723

S-5390

1 Amend the Senate amendment, H-8746, to House File
2 723, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by inserting after line 4, the
5 following:

6 "Section 1. Section 232.8, subsection 1, paragraph
7 c, Code 1999, is amended to read as follows:

8 c. Violations by a child, age sixteen or older,
9 which subject the child to the provisions of section
10 124.401, subsection 1, paragraph "e" or "f", or
11 violations of section 723A.2 which involve a violation
12 of chapter 724, or violation of chapter 724 which
13 constitutes a felony, or violations which constitute a
14 forcible felony are excluded from the jurisdiction of
15 the juvenile court and shall be prosecuted as
16 otherwise provided by law unless the court transfers
17 jurisdiction of the child to the juvenile court upon
18 motion and for good cause. A child over whom
19 jurisdiction has not been transferred to the juvenile
20 court, and who is convicted of a violation excluded
21 from the jurisdiction of the juvenile court under this
22 paragraph, shall be sentenced pursuant to section
23 124.401B, 902.9, or 903.1. Notwithstanding any other
24 provision of the Code to the contrary, the court may
25 accept from a child a plea of guilty, or may instruct
26 the jury on a lesser included offense to the offense
27 excluded from the jurisdiction of the juvenile court
28 under this section, in the same manner as regarding an
29 adult. However, the juvenile court shall have
30 exclusive original jurisdiction in a proceeding
31 concerning an offense of livestock torture as provided
32 in section 717.3 or animal torture as provided in
33 section 717B.3A alleged to have been committed by a
34 child under the age of seventeen.

35 Sec. _____. Section 232.8, subsection 3, Code 1999,
36 is amended by adding the following new unnumbered
37 paragraph:

38 NEW UNNUMBERED PARAGRAPH. This subsection does not
39 apply in a proceeding concerning an offense of
40 livestock torture as provided in section 717.3 or
41 animal torture as provided in section 717B.3A alleged
42 to have been committed by a child under the age of
43 seventeen."

44 2. Page 1, by striking lines 5 through 41.

45 3. Page 1, by striking lines 45 through 47, and
46 inserting the following: "animal, if the person
47 inflicts upon the animal severe physical pain with a
48 depraved or sadistic intent to cause prolonged
49 suffering or death."

50 4. Page 2, by striking lines 33 through 40, and

S-5390

S-5390

Page 2

1 inserting the following:

2 "_____. The following shall apply to a person who
3 commits animal torture:

4 (1) For the first conviction, the person is guilty
5 of an aggravated misdemeanor. The sentencing order
6 shall provide that the person submit to psychological
7 evaluation and treatment according to terms required
8 by the court. The costs of the evaluation and
9 treatment shall be paid by the person. In addition,
10 the sentencing order shall provide that the person
11 complete a community work requirement, which may
12 include a work requirement performed at an animal
13 shelter or pound, as defined in section 162.2,
14 according to terms required by the court.

15 (2) For a second or subsequent conviction, the
16 person is guilty of a class "D" felony. The
17 sentencing order shall provide that the person submit
18 to psychological evaluation and treatment according to
19 terms required by the court. The costs of the
20 psychological evaluation and treatment shall be paid
21 by the person.

22 b. The juvenile court shall have exclusive
23 original jurisdiction in a proceeding concerning a
24 child who is alleged to have committed animal torture,
25 in the manner provided in section 232.8. The juvenile
26 court shall not waive jurisdiction in a proceeding
27 concerning an offense alleged to have been committed
28 by a child under the age of seventeen."

29 5. By renumbering, relettering, or redesignating
30 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5390 FILED APRIL 12, 2000

Senate Concurred

4/13/00

(P. 1143)

**HOUSE FILE 723
FISCAL NOTE**

The estimate for S-5013 to House File 723 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

BACKGROUND

Senate Amendment S-5013 to House File 723 strikes everything after the enacting clause and states a person is guilty of animal torture if the person acts with depraved or sadistic intent to inflict severe physical pain in order to prolong suffering or death of an animal. The amendment also states a person guilty of animal torture is guilty of an aggravated misdemeanor for the first offense and guilty of a Class "D" felony for a second or subsequent offense.

ASSUMPTIONS

1. In calendar year 1998 there were nine convictions for animal abuse. Conviction trends will not change over the projected period. However, the actual number of Class "D" felony convictions that may result from this proposal is unknown.
2. The cost of a public defender to defend an aggravated misdemeanor case is \$1,000, which is the same cost to defend a Class "D" felony.
3. The cost of county prosecution to prosecute an aggravated misdemeanor case is \$1,000, which is the same cost to prosecute a Class "D" felony.
4. Aggravated misdemeanor or Class "D" felony cases that are uncontested will take an average of three hours to complete. Aggravated misdemeanor or Class "D" felony cases that go to trial will take an average of four days (32 hours) to complete. Aggravated misdemeanors are handled by district associate judges at a cost of \$47.00 per hour. Class "D" felonies are handled by district court judges at a cost of \$54.00 per hour. Hourly salary and benefit costs for a court reporter are \$22.00 per hour and \$13.00 per hour for a court attendant.

CORRECTIONAL IMPACT

Amendment S-5013 to House File 723 is expected to have a minimal correctional impact.

FISCAL IMPACT

The fiscal impact of S-5013 to House File 723 is expected to have a minimal impact on the General Fund and to local governments.

SOURCE

Department of Human Rights

(LSB 1588HV.4, SKW)

**HOUSE FILE 723
FISCAL NOTE**

The estimate for H-8823 to H-8746 to HF 723 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House Amendment H-8823 amends HF 723 as amended by the Senate Amendment H-8746. This amendment states Section 717.3, Livestock Torture, or Section 717B.3A, Animal Torture, does not apply to a child under the age of seventeen. This amendment also states a person found guilty of an aggravated misdemeanor for livestock or animal torture will submit to psychological evaluation and treatment, at the persons expense, and complete community work. A person found guilty of a Class "D" felony for livestock or animal torture shall submit to psychological evaluation and treatment, at the persons expense.

ASSUMPTIONS

This amendment states the offender must pay for the cost of the psychological evaluation and treatment.

CORRECTIONAL IMPACT

Amendment H-8823 to H-8746 to House File 723 is expected to have no correctional impact.

FISCAL IMPACT

The fiscal impact of H-8823 to H-8746 to House File 723 is expected to have no impact on the General Fund and to local governments.

SOURCE

Department of Human Rights

(LSB 1588hv.6, SKW)

FILED APRIL 11, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE FILE 723
FISCAL NOTE**

The estimate for HF 723 as passed by the Senate is hereby submitted as fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate Amendment S-5342 amended House File 723 by striking everything after the enacting clause and stating a person is guilty of livestock or animal torture if the person acts with depraved or sadistic intent to inflict severe physical pain in order to prolong suffering or death of an animal. The amendment also states a person guilty of livestock or animal torture is guilty of an aggravated misdemeanor for the first offense and guilty of a Class "D" felony for a second or subsequent offense. The amendment also states a person who is guilty of livestock or animal torture shall have a sentencing order that requires the person to participate in counseling.

ASSUMPTIONS

1. In calendar year 1998 there were nine convictions for animal abuse and nine convictions for livestock abuse. Conviction trends will not change over the projected period. However, the actual number of Class "D" felony convictions that may result from this proposal is unknown.
2. The cost of a public defender to defend an aggravated misdemeanor case is \$1,000, which is the same cost to defend a Class "D" felony.
3. The cost of county prosecution to prosecute an aggravated misdemeanor case is \$1,000, which is the same cost to prosecute a Class "D" felony.
4. Aggravated misdemeanor or Class "D" felony cases that are uncontested will take an average of three hours to complete. Aggravated misdemeanor or Class "D" felony cases that go to trial will take an average of four days (32 hours) to complete. Aggravated misdemeanors are handled by district associate judges at a cost of \$47.00 per hour. Class "D" felonies are handled by district court judges at a cost of \$54.00 per hour. Hourly salary and benefit costs for a court reporter are \$22.00 per hour and \$13.00 per hour for a court attendant.

CORRECTIONAL IMPACT

House File 723 as passed by the Senate is expected to have a minimal correctional impact.

FISCAL IMPACT

The fiscal impact of House File 723 as passed by the Senate is expected to have a minimal impact on the General Fund and to local governments.

SOURCE

Department of Human Rights

(LSB 1588hv.5, SKW)

HOUSE FILE 723

AN ACT

PROHIBITING THE MISTREATMENT OF ANIMALS AND PROVIDING FOR
PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 232.8, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. Violations by a child, age sixteen or older, which subject the child to the provisions of section 124.401, subsection 1, paragraph "e" or "f", or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the court transfers jurisdiction of the child to the juvenile court upon motion and for good cause. A child over whom jurisdiction has not been transferred to the juvenile court, and who is convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph, shall be sentenced pursuant to section 124.401B, 902.9, or 903.1. Notwithstanding any other provision of the Code to the contrary, the court may accept from a child a plea of guilty, or may instruct the jury on a lesser included offense to the offense excluded from the

jurisdiction of the juvenile court under this section, in the same manner as regarding an adult. However, the juvenile court shall have exclusive original jurisdiction in a proceeding concerning an offense of livestock torture as provided in section 717.3 or animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

Sec. 2. Section 232.8, subsection 3, Code 1999, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This subsection does not apply in a proceeding concerning an offense of livestock torture as provided in section 717.3 or animal torture as provided in section 717B.3A alleged to have been committed by a child under the age of seventeen.

Sec. 3. NEW SECTION. 717B.3A ANIMAL TORTURE.

1. A person is guilty of animal torture, regardless of whether the person is the owner of the animal, if the person inflicts upon the animal severe physical pain with a depraved or sadistic intent to cause prolonged suffering or death.
2. This section shall not apply to any of the following:
 - a. A person acting to carry out an order issued by a court.
 - b. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.
 - c. A person carrying out a practice that is consistent with animal husbandry practices.
 - d. A person acting in order to carry out another provision of law which allows the conduct.
 - e. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.
 - f. A person acting to protect the person's property from a wild animal as defined in section 481A.1.
 - g. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.

h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.

i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

j. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

k. An institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

3. a. The following shall apply to a person who commits animal torture:

(1) For the first conviction, the person is guilty of an aggravated misdemeanor. The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the evaluation and treatment shall be paid by the person. In addition, the sentencing order shall provide that the person complete a community work requirement, which may include a work requirement performed at an animal shelter or pound, as defined in section 162.2, according to terms required by the court.

(2) For a second or subsequent conviction, the person is guilty of a class "D" felony. The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the psychological evaluation and treatment shall be paid by the person.

b. The juvenile court shall have exclusive original jurisdiction in a proceeding concerning a child who is alleged to have committed animal torture, in the manner provided in

section 232.8. The juvenile court shall not waive jurisdiction in a proceeding concerning an offense alleged to have been committed by a child under the age of seventeen.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 723, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 4/28/00, 2000

THOMAS J. VILSACK
Governor