

Senate File 2138 - Introduced

SENATE FILE 2138

BY BISIGNANO

A BILL FOR

1 An Act prohibiting the mistreatment of animals other
2 than livestock and wild animals, providing reporting
3 requirements, providing for criminal offenses, and including
4 penalties.

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

1 Section 1. NEW SECTION. 169.21 Animal cruelty report.

2 1. a. A person who practices veterinary medicine under a
3 valid license or temporary permit and who concludes that an
4 animal is being subjected to animal cruelty shall complete an
5 animal cruelty report and submit the report to a local law
6 enforcement agency having jurisdiction to investigate the
7 matter. The local law enforcement agency shall file the report
8 as provided in section 717B.10.

9 b. The board may adopt rules detailing any grounds or
10 procedures for making a conclusion that an animal is being
11 subjected to animal cruelty. However, the conclusion must
12 at least be based on clinical indications that if true could
13 reasonably constitute elements of animal abuse in the first
14 degree as described in section 717B.2, subsection 1, animal
15 neglect in the first degree as described in section 717B.2B,
16 subsection 1, or animal torture as described in section
17 717B.3A. Notwithstanding section 169.3, for purposes of this
18 section, "animal" means the same as defined in section 717B.1.

19 2. A report shall include, to every extent known by the
20 person completing the report, all of the following:

21 a. The name and description of the animal.

22 b. The address and contact information of the owner or other
23 person responsible for the care of the animal.

24 c. A description of the nature and extent of the indications
25 of animal cruelty.

26 d. Any evidence indicating that the animal has been
27 subjected to animal cruelty previously.

28 e. Any other information required by the local law
29 enforcement agency that may be of value in conducting a
30 criminal investigation.

31 3. The board may prepare and distribute a form for use
32 by a person completing and submitting a report under this
33 section and by a local law enforcement agency filing the
34 report under section 717B.10. The form shall replace the
35 information required to be completed in subsection 2. However,

1 the report must at least require the completion of information
2 necessary for a law enforcement officer to interview the person
3 submitting the report and conduct an investigation regarding
4 the commission of a public offense described in subsection
5 1. The board may consult the department of public safety when
6 preparing the form and may publish the form on the internet
7 site of the department of agriculture and land stewardship or
8 the department of public safety.

9 4. A person participating in good faith in reporting,
10 cooperating with, or assisting a local law enforcement agency
11 in evaluating a case of animal cruelty has immunity from
12 criminal or civil liability or administrative disciplinary
13 action, which might otherwise be incurred or imposed based upon
14 the act of making the report or giving the assistance. The
15 person has the same immunity with respect to participating in
16 good faith in a judicial proceeding resulting from the report,
17 cooperation, or assistance or relating to the subject matter of
18 the report, cooperation, or assistance.

19 Sec. 2. Section 717B.1, Code 2016, is amended by adding the
20 following new subsections:

21 NEW SUBSECTION. 3A. *a.* "*Convicted*" means found guilty of,
22 pleads guilty to, or is sentenced or adjudicated delinquent
23 for an act which is an indictable offense in this state or in
24 another state, including but not limited to a juvenile who has
25 been adjudicated delinquent, whether or not the juvenile court
26 records have been sealed under section 232.150, and a person
27 who has received a deferred sentence or a deferred judgment or
28 has been acquitted by reason of insanity.

29 *b.* "*Convicted*" includes the conviction of a juvenile
30 prosecuted as an adult. "*Convicted*" also includes a conviction
31 for an attempt or conspiracy to commit an offense.

32 *c.* "*Convicted*" does not mean a plea, sentence, adjudication,
33 deferred sentence, or deferred judgment which has been reversed
34 or otherwise set aside.

35 NEW SUBSECTION. 4A. "*Injury*" means physical damage or harm

1 to an animal's muscle, tissue, organs, bones, hide, or skin
2 that causes the animal to suffer pain.

3 NEW SUBSECTION. 6A. "*Local law enforcement agency*" means
4 an entity established as part of a local authority to serve as
5 a police force responsible for the prevention and detection of
6 crime and enforcement of the criminal laws of this state.

7 NEW SUBSECTION. 8A. "*Serious injury*" means an injury that
8 creates a substantial risk of death or that causes protracted
9 disfigurement, protracted impairment of health, or protracted
10 loss or impairment of the function of a limb or organ.

11 Sec. 3. Section 717B.1, subsection 9, Code 2016, is amended
12 to read as follows:

13 9. "*Threatened animal*" means an animal that ~~is abused as~~
14 ~~provided~~ suffers mistreatment due to animal abuse as described
15 in section 717B.2 or 717B.2A, neglected animal neglect as
16 ~~provided~~ described in section 717B.2B or 717B.3, or tortured
17 animal torture as provided described in section 717B.3A,
18 animal abandonment as described in section 717B.3B, or animal
19 endangerment as described in section 717B.3C.

20 Sec. 4. Section 717B.2, Code 2016, is amended to read as
21 follows:

22 **717B.2 Animal abuse in the first degree — penalties.**

23 1. A person ~~is guilty of animal abuse if the person~~
24 ~~intentionally injures, maims, disfigures, or destroys an animal~~
25 ~~owned by another person, in any manner, including intentionally~~
26 ~~poisoning the animal~~ commits animal abuse in the first degree
27 when the person knowingly or recklessly causes serious injury
28 to an animal by force, violence, or poisoning. A person guilty
29 ~~of animal abuse is guilty of an aggravated misdemeanor.~~

30 2. This section shall not apply to conduct engaged in by any
31 of the following:

32 ~~1. A person acting with the consent of the person owning~~
33 ~~the animal, unless the action constitutes animal neglect as~~
34 ~~provided in section 717B.3.~~

35 ~~2. a.~~ a. A person acting to carry out an order issued by a

1 court.

2 ~~3.~~ b. A licensed veterinarian practicing veterinary
3 medicine as provided in [chapter 169](#).

4 ~~4.~~ c. A person acting in order to carry out another
5 provision of law which allows the conduct.

6 ~~5.~~ d. A person taking, hunting, trapping, or fishing for a
7 wild animal as provided in [chapter 481A](#).

8 ~~6.~~ e. A person acting to protect the person's property from
9 a wild animal as defined in [section 481A.1](#).

10 ~~7.~~ f. A person acting to protect a person from injury or
11 death caused by a wild animal as defined in [section 481A.1](#).

12 ~~8.~~ g. A person reasonably acting to protect the person's
13 property from damage caused by an unconfined animal.

14 ~~9.~~ h. A person reasonably acting to protect a person from
15 injury or death caused by an unconfined animal.

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

21 ~~11.~~ j. A research facility, as defined in [section 162.2](#),
22 provided that the research facility performs functions within
23 the scope of accepted practices and disciplines associated with
24 the research facility.

25 3. A person who commits animal abuse in the first degree is
26 guilty of an aggravated misdemeanor.

27 4. Notwithstanding subsection 3, a person who commits
28 animal abuse in the first degree is guilty of a class "D"
29 felony under any of the following circumstances:

30 a. The offense was committed by an adult when a juvenile was
31 physically present.

32 b. The person has previously been convicted of any of the
33 following:

34 (1) Animal abuse pursuant to this section or section
35 717B.2A, animal neglect pursuant to section 717B.2B or 717B.3,

1 animal torture pursuant to section 717B.3A, animal abandonment
2 pursuant to section 717B.3B, animal endangerment pursuant
3 to section 717B.3C, injury or interference with a police
4 service dog pursuant to section 717B.9, bestiality pursuant to
5 section 717C.1, or committing an act involving a contest event
6 prohibited in section 717D.4.

7 (2) An offense under any other state's statute
8 substantially corresponding to an offense described in
9 subparagraph (1). The court shall judicially notice
10 the statute of another state which defines such offense
11 substantially equivalent to an offense described in
12 subparagraph (1) and can therefore be considered a
13 corresponding statute.

14 Sec. 5. NEW SECTION. 717B.2A **Animal abuse in the second**
15 **degree — penalties.**

16 1. A person commits animal abuse in the second degree when
17 the person knowingly or recklessly causes injury to an animal
18 by force, violence, or poisoning.

19 2. This section shall not apply to conduct engaged in by a
20 person described in section 717B.2, subsection 2.

21 3. A person who commits animal abuse in the second degree is
22 guilty of a serious misdemeanor.

23 4. Notwithstanding subsection 3, a person who commits
24 animal abuse in the second degree is guilty of an aggravated
25 misdemeanor under any of the following circumstances:

26 a. The offense was committed by an adult when a juvenile was
27 physically present.

28 b. The person has previously been convicted of any of the
29 following:

30 (1) Animal abuse pursuant to section 717B.2 or this section,
31 animal neglect pursuant to section 717B.2B or 717B.3, animal
32 torture pursuant to section 717B.3A, animal abandonment
33 pursuant to section 717B.3B, animal endangerment pursuant
34 to section 717B.3C, injury or interference with a police
35 service dog pursuant to section 717B.9, bestiality pursuant to

1 section 717C.1, or committing an act involving a contest event
2 prohibited in section 717D.4.

3 (2) An offense under any other state's statute
4 substantially corresponding to an offense described in
5 subparagraph (1). The court shall judicially notice
6 the statute of another state which defines such offense
7 substantially equivalent to an offense described in
8 subparagraph (1) and can therefore be considered a
9 corresponding statute.

10 Sec. 6. NEW SECTION. 717B.2B **Animal neglect in the first**
11 **degree — penalties.**

12 1. A person commits animal neglect in the first degree when
13 the person owns or has custody of an animal, confines that
14 animal, and causes the animal to suffer serious injury, by
15 failing to reasonably provide any of the following:

16 a. Access to food in an amount and quality sufficient to
17 satisfy the animal's basic nutrition level.

18 b. Access to a supply of potable water in an amount
19 sufficient to satisfy the animal's basic hydration level.

20 Access to snow or ice does not satisfy this requirement.

21 c. Sanitary conditions free from excessive animal waste or
22 the overcrowding of animals.

23 d. Adequate shelter sufficient to provide the animal with
24 protection from extreme weather conditions, including but not
25 limited to sun, wind, rain, snow, ice, or standing water.

26 2. This section does not apply to any of the following:

27 a. A person acting to carry out another provision of law
28 which allows the conduct.

29 b. A research facility, as defined in section 162.2,
30 provided that the research facility performs functions within
31 the scope of accepted practices and disciplines associated with
32 the research facility.

33 3. A person who commits animal neglect in the first degree
34 is guilty of an aggravated misdemeanor.

35 4. Notwithstanding subsection 3, a person who commits

1 animal neglect in the first degree is guilty of a class "D"
2 felony under any of the following circumstances:

3 a. The offense was committed by an adult when a juvenile was
4 physically present.

5 b. The person has previously been convicted of any of the
6 following:

7 (1) Animal abuse pursuant to section 717B.2 or 717B.2A,
8 animal neglect pursuant to this section or section 717B.3,
9 animal torture pursuant to section 717B.3A, animal abandonment
10 pursuant to section 717B.3B, animal endangerment pursuant
11 to section 717B.3C, injury or interference with a police
12 service dog pursuant to section 717B.9, bestiality pursuant to
13 section 717C.1, or committing an act involving a contest event
14 prohibited in section 717D.4.

15 (2) An offense under any other state's statute
16 substantially corresponding to an offense described in
17 subparagraph (1). The court shall judicially notice
18 the statute of another state which defines such offense
19 substantially equivalent to an offense described in
20 subparagraph (1) and can therefore be considered a
21 corresponding statute.

22 Sec. 7. Section 717B.3, Code 2016, is amended to read as
23 follows:

24 **717B.3 Animal neglect in the second degree — penalties.**

25 1. A person who ~~impounds or~~ commits animal neglect in
26 the second degree when the person owns or has custody of an
27 animal, confines, in any place, an that animal, is guilty of
28 animal neglect if the person does and causes the animal to
29 suffer injury, by failing to reasonably provide any of the
30 following:

31 a. ~~Fails to supply the animal during confinement with a~~
32 ~~sufficient quantity of food or water.~~ Access to food in an
33 amount and quality sufficient to satisfy the animal's basic
34 nutrition level.

35 b. ~~Fails to provide a confined dog or cat with adequate~~

1 ~~shelter.~~ Access to a supply of potable water in an amount
2 sufficient to satisfy the animal's basic hydration level.

3 Access to snow or ice does not satisfy this requirement.

4 ~~c. Tortures, deprives of necessary sustenance, mutilates,~~
5 ~~beats, or kills an animal by any means which causes unjustified~~
6 ~~pain, distress, or suffering.~~ Sanitary conditions free from
7 excessive animal waste or the overcrowding of animals.

8 d. Adequate shelter sufficient to provide the animal with
9 protection from extreme weather conditions, including but not
10 limited to sun, wind, rain, snow, ice, or standing water.

11 2. This section does not apply to a any of the following:

12 a. A person acting to carry out another provision of law
13 which allows the conduct.

14 b. A research facility, as defined in section 162.2,
15 provided that the research facility performs functions within
16 the scope of accepted practices and disciplines associated with
17 the research facility.

18 3. ~~A person who negligently or intentionally commits the~~
19 ~~offense of animal neglect in the second degree is guilty of~~
20 ~~a simple serious misdemeanor. A person who intentionally~~
21 ~~commits the offense of animal neglect which results in serious~~
22 ~~injury to or the death of an animal is guilty of a serious~~
23 ~~misdemeanor.~~

24 4. Notwithstanding subsection 3, a person who commits
25 animal neglect in the second degree is guilty of an aggravated
26 misdemeanor under any of the following circumstances:

27 a. The offense was committed by an adult when a juvenile was
28 physically present.

29 b. The person has previously been convicted of any of the
30 following:

31 (1) Animal abuse pursuant to section 717B.2 or 717B.2A,
32 animal neglect pursuant to section 717B.2B or this section,
33 animal torture pursuant to section 717B.3A, animal abandonment
34 pursuant to section 717B.3B, animal endangerment pursuant
35 to section 717B.3C, injury or interference with a police

1 service dog pursuant to section 717B.9, bestiality pursuant to
2 section 717C.1, or committing an act involving a contest event
3 prohibited in section 717D.4.

4 (2) An offense under any other state's statute
5 substantially corresponding to an offense described in
6 subparagraph (1). The court shall judicially notice
7 the statute of another state which defines such offense
8 substantially equivalent to an offense described in
9 subparagraph (1) and can therefore be considered a
10 corresponding statute.

11 Sec. 8. Section 717B.3A, Code 2016, is amended to read as
12 follows:

13 **717B.3A Animal torture — penalties.**

14 1. A person is guilty of animal torture, ~~regardless of~~
15 ~~whether the person is the owner of the animal, if when the~~
16 person inflicts upon the animal severe and prolonged or
17 repeated physical pain with a ~~depraved or sadistic intent to~~
18 cause that results in the animal's prolonged suffering and
19 serious injury or death.

20 2. **This section** shall not apply to conduct engaged in by any
21 of the following:

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

23 b. A licensed veterinarian practicing veterinary medicine as
24 provided in **chapter 169**.

25 c. A person carrying out a practice that is consistent with
26 animal husbandry practices.

27 d. A person acting in order to carry out another provision
28 of law which allows the conduct.

29 e. A person taking, hunting, trapping, or fishing for a wild
30 animal as provided in **chapter 481A**.

31 f. A person acting to protect the person's property from a
32 wild animal as defined in **section 481A.1**.

33 g. A person acting to protect a person from injury or death
34 caused by a wild animal as defined in **section 481A.1**.

35 h. A person reasonably acting to protect the person's

1 property from damage caused by an unconfined animal.

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

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

9 *k.* A research facility, as defined in [section 162.2](#),
10 provided that the research facility performs functions within
11 the scope of accepted practices and disciplines associated with
12 the research facility.

13 3. ~~*a.* The following shall apply to a person who commits
14 animal torture:~~

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

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

30 ~~*b.* The juvenile court shall have exclusive original
31 jurisdiction in a proceeding concerning a child who is alleged
32 to have committed animal torture, in the manner provided in
33 section 232.8. The juvenile court shall not waive jurisdiction
34 in a proceeding concerning an offense alleged to have been
35 committed by a child under the age of seventeen.~~

1 4. A person who commits animal torture is guilty of a class
2 "D" felony.

3 5. Notwithstanding subsection 4, a person who commits
4 animal torture is guilty of a class "C" felony under any of the
5 following circumstances:

6 a. The offense was committed by an adult when a juvenile was
7 physically present.

8 b. The person has previously been convicted of any of the
9 following:

10 (1) Animal abuse pursuant to section 717B.2 or 717B.2A,
11 animal neglect pursuant to section 717B.2B or 717B.3, animal
12 torture pursuant to this section, animal abandonment pursuant
13 to section 717B.3B, animal endangerment pursuant to section
14 717B.3C, injury or interference with a police service dog
15 pursuant to section 717B.9, bestiality pursuant to section
16 717C.1, or committing an act involving a contest event
17 prohibited in section 717D.4.

18 (2) An offense under any other state's statute
19 substantially corresponding to an offense described in
20 subparagraph (1). The court shall judicially notice
21 the statute of another state which defines such offense
22 substantially equivalent to an offense described in
23 subparagraph (1) and can therefore be considered a
24 corresponding statute.

25 **Sec. 9. NEW SECTION. 717B.3B Animal abandonment —**
26 **penalties.**

27 1. A person commits animal abandonment when the person does
28 all of the following:

29 a. Knowingly or recklessly relinquishes custody of an animal
30 at a location in which the person does not hold a legal or
31 equitable interest.

32 b. Fails to do any of the following:

33 (1) Legally transfer the animal to another person.

34 (2) Make reasonable arrangements for the transfer of
35 custody of the animal to a person who agrees to assume custody

1 of the animal.

2 (3) Make other reasonable arrangements for the care of the
3 animal in a manner that would not constitute animal neglect in
4 the first degree under section 717B.2B, subsection 1.

5 2. A person who commits animal abandonment is guilty of a
6 simple misdemeanor.

7 3. Notwithstanding subsection 2, a person who commits
8 animal abandonment is guilty of a serious misdemeanor under any
9 of the following circumstances:

10 a. The offense was committed by an adult when a juvenile was
11 physically present.

12 b. The person has previously been convicted of any of the
13 following:

14 (1) Animal abuse pursuant to section 717B.2 or 717B.2A,
15 animal neglect pursuant to section 717B.2B or 717B.3, animal
16 torture pursuant to section 717B.3A, animal abandonment
17 pursuant to this section, animal endangerment pursuant to
18 section 717B.3C, injury or interference with a police service
19 dog pursuant to section 717B.9, bestiality pursuant to
20 section 717C.1, or committing an act involving a contest event
21 prohibited in section 717D.4.

22 (2) An offense under any other state's statute
23 substantially corresponding to an offense described in
24 subparagraph (1). The court shall judicially notice
25 the statute of another state which defines such offense
26 substantially equivalent to an offense described in
27 subparagraph (1) and can therefore be considered a
28 corresponding statute.

29 Sec. 10. NEW SECTION. 717B.3C Animal endangerment —
30 penalties.

31 1. A person commits animal endangerment when the person
32 confines an animal in a stationary motor vehicle in a manner
33 that endangers the health or life of the animal by exposing the
34 animal to a prolonged period of extreme interior temperature or
35 a long period without adequate ventilation.

1 2. A person who commits animal endangerment is guilty of a
2 simple misdemeanor.

3 3. Notwithstanding subsection 2, a person who commits
4 animal endangerment is guilty of a serious misdemeanor under
5 any of the following circumstances:

6 a. The offense was committed by an adult when a juvenile was
7 physically present.

8 b. The person has previously been convicted of any of the
9 following:

10 (1) Animal abuse pursuant to section 717B.2 or 717B.2A,
11 animal neglect pursuant to section 717B.2B or 717B.3, animal
12 torture pursuant to section 717B.3A, animal abandonment
13 pursuant to this section, animal endangerment pursuant to
14 this section, injury or interference with a police service
15 dog pursuant to section 717B.9, bestiality pursuant to
16 section 717C.1, or committing an act involving a contest event
17 prohibited in section 717D.4.

18 (2) An offense under any other state's statute
19 substantially corresponding to an offense described in
20 subparagraph (1). The court shall judicially notice
21 the statute of another state which defines such offense
22 substantially equivalent to an offense described in
23 subparagraph (1) and can therefore be considered a
24 corresponding statute.

25 **Sec. 11. NEW SECTION. 717B.3D Animal mistreatment — court**
26 **order — evaluation and treatment.**

27 1. At the time of a person's conviction for a public
28 offense committed under this chapter, a court may enter an
29 order requiring the person to undergo a psychological or
30 psychiatric evaluation and to undergo any treatment that the
31 court determines to be appropriate after due consideration of
32 the evaluation. However, the court shall enter such an order
33 if the convicted person is any of the following:

34 a. A juvenile.

35 b. An adult committing animal abuse pursuant to section

1 717B.2 or 717B.2A, animal neglect in the first degree pursuant
2 to section 717B.2B, animal neglect in the second degree
3 punishable as an aggravated misdemeanor pursuant to section
4 717B.3, or animal torture pursuant to section 717B.3A.

5 2. The costs of undergoing a psychological or psychiatric
6 evaluation and undergoing any treatment ordered by the court
7 shall be borne by the convicted person, unless the person is
8 a juvenile.

9 3. An order made under this section is in addition to any
10 other order or sentence of the court.

11 4. Any violation of the court order shall be punished as
12 contempt of court pursuant to chapter 665.

13 **Sec. 12. NEW SECTION. 717B.3E Animal mistreatment —**
14 **sentencing order — prohibitions.**

15 1. Upon the time of a person's sentencing for a public
16 offense committed under this chapter, a court may prohibit the
17 person from owning or obtaining custody of an animal belonging
18 to the same taxonomic genus as the animal that the defendant
19 is convicted of mistreating, or residing in the same dwelling
20 where such animal is kept. The period of the prohibition shall
21 be not less than one but not more than five years.

22 2. Notwithstanding subsection 1, the court shall enter such
23 an order if the convicted person has committed animal abuse
24 pursuant to section 717B.2 or 717B.2A, animal neglect in the
25 first degree pursuant to section 717B.2B, animal neglect in the
26 second degree punishable as an aggravated misdemeanor pursuant
27 to section 717B.3, or animal torture pursuant to section
28 717B.3A. The period of such prohibition shall be as follows:

29 a. For an aggravated misdemeanor, from one to five years.

30 b. For a class "D" felony, from five to fifteen years.

31 c. For a class "C" felony, for life.

32 3. The duration of a prohibition described in this
33 section commences on the date that the person is placed on
34 probation, released on parole or work release, or released from
35 incarceration or from placement in a juvenile facility.

1 4. An order made pursuant to this section is in addition to
2 any other order or sentence of the court.

3 5. Any violation of the court order described in this
4 section is a public offense and shall be punished as a simple
5 misdemeanor.

6 Sec. 13. Section 717B.5, subsection 1, Code 2016, is amended
7 to read as follows:

8 1. The rescue must be made by a law enforcement officer
9 having cause to believe that the animal is a threatened animal
10 after consulting with a veterinarian licensed pursuant to
11 chapter 169. An animal cruelty report filed with a local
12 law enforcement agency pursuant to section 717B.10 is not a
13 substitute for consulting with a licensed veterinarian. The
14 law enforcement officer may rescue the animal by entering on
15 public or private property, as provided in [this subsection](#).
16 The law enforcement officer may enter onto property of a person
17 to rescue the animal if the officer obtains a search warrant
18 issued by a court, or enters onto the premises in a manner
19 consistent with the laws of this state and the United States,
20 including Article I, section 8, of the Constitution of the
21 State of Iowa, or the fourth amendment to the Constitution of
22 the United States.

23 Sec. 14. NEW SECTION. **717B.5A Rescue — motor vehicles.**

24 1. A law enforcement officer may rescue an animal from a
25 stationary motor vehicle, including through the use of forced
26 entrance, if the law enforcement officer reasonably believes
27 that the animal may be suffering distress due to exposure to
28 extreme interior temperature or a lack of adequate ventilation.
29 The law enforcement officer's action is justified regardless
30 of whether the law enforcement officer observed indications
31 of distress or whether the person could be charged with or
32 convicted of committing a public offense.

33 2. The law enforcement officer shall provide written
34 notice of the rescue to the animal's responsible party. This
35 requirement is satisfied by placing the notice in a conspicuous

1 place located within the motor vehicle. The notice must state
2 where the rescued animal may be claimed.

3 3. The local authority shall provide for the maintenance
4 of the rescued animal as if it were a threatened animal under
5 section 717B.5. However, no dispositional proceeding under
6 section 717B.4 is required if within ten days after the date
7 of the animal's rescue the responsible party claims the animal
8 from the local authority. In order to claim the animal, the
9 responsible party must reimburse the local authority for all
10 reasonable costs that accrued from rescuing and maintaining the
11 animal.

12 Sec. 15. NEW SECTION. 717B.10 Animal cruelty report.

13 A local law enforcement agency shall accept and file an
14 animal cruelty report submitted by a person as provided in
15 section 169.21. The report may be used as the basis for an
16 investigation or criminal complaint or information under this
17 chapter, or for determining whether to perform a rescue under
18 section 717B.5.

19 Sec. 16. IMPLEMENTATION OF ACT. Section 25B.2, subsection
20 3, shall not apply to this Act.

21 Sec. 17. REPEAL. Section 717B.8, Code 2016, is repealed.

22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 GENERAL. This bill amends Code chapter 717B prohibiting
26 the mistreatment of certain animals, including dogs and cats,
27 but excluding other animals such as livestock (Code chapter
28 717); game, fur-bearing animals, fish, reptiles, or amphibians
29 (Code chapter 481A), unless such animal is owned, confined,
30 or controlled by a person; or a nongame animal declared to be
31 a nuisance by the natural resource commission (Code section
32 481A.42).

33 There are seven amended or new criminal offenses, including
34 animal abuse in the first or second degree (amended Code
35 section 717B.2 and new Code section 717B.2A), animal neglect

1 in the first or second degree (new Code section 717B.2B
2 and amended Code section 717B.3), animal torture (amended
3 Code section 717B.3A), animal abandonment (new Code section
4 717B.3B), and animal endangerment (new Code section 717B.3C).
5 Each of the amended or new offenses includes an enhanced
6 penalty that applies to a convicted person in either of two
7 situations: (1) the person is an adult who committed the
8 offense in the presence of a juvenile or (2) the person has
9 previously committed any of the offenses previously described;
10 committed injury or interference with a police service dog
11 (Code section 717B.9); committed bestiality (Code section
12 717C.1); committed an offense involving animal fighting (Code
13 section 717D.4); or committed any similar offense in another
14 state.

15 TYPES OF CRIMINAL OFFENSES BASED ON OBSERVED INJURY. Animal
16 abuse involves injuring an animal by violence or poisoning;
17 animal neglect involves failing to provide an animal with
18 adequate food, water, or habitable conditions; and animal
19 torture involves inflicting upon the animal severe and
20 prolonged or repeated physical pain. For animal abuse in
21 the first or second degree, animal neglect in the first or
22 second degree, or animal torture, the animal must suffer a
23 serious injury meaning a substantial risk of death, protracted
24 disfigurement, impairment, or a loss or impairment of a limb.
25 For animal abuse in the second degree or animal neglect in
26 the second degree, the animal must suffer some injury to the
27 animal's body. For these observable injury-related offenses,
28 the criminal penalties are as follows: (1) animal abuse
29 in the first degree, an aggravated misdemeanor which may
30 be enhanced to a class "D" felony; (2) animal abuse in the
31 second degree, a serious misdemeanor which may be enhanced to
32 an aggravated misdemeanor; (3) animal neglect in the first
33 degree, an aggravated misdemeanor which may be enhanced to a
34 class "D" felony; (4) animal neglect in the second degree, a
35 serious misdemeanor which may be enhanced to an aggravated

1 misdemeanor; and (5) animal torture, a class "D" felony which
2 may be enhanced to a class "C" felony.

3 A number of exceptions apply to the animal abuse and animal
4 torture offenses, including carrying out (1) a court order; (2)
5 a veterinary practice; (3) a good animal husbandry practice;
6 (4) another provision of law; (5) legally hunting, trapping,
7 or fishing; (6) a defense of property or life; (7) conduct
8 by a local authority; and (8) research activities. The bill
9 eliminates a provision in the current abuse Code section that
10 excepts an animal's owner from culpability. The bill also
11 eliminates an element of animal torture that requires proof of
12 sadistic or depraved intent.

13 TYPES OF CRIMINAL OFFENSES NOT BASED ON AN OBSERVED INJURY.

14 For animal abandonment, a person must knowingly or recklessly
15 relinquish custody of an animal, and then fail to provide for
16 its legal transfer or make arrangements for its care. For
17 animal endangerment, a person must confine an animal in a
18 stationary motor vehicle in a manner that endangers the health
19 or life of the animal. For these last two offenses, the
20 criminal penalties are the same: a simple misdemeanor which
21 may be enhanced to a serious misdemeanor.

22 APPLICABLE CRIMINAL PENALTIES. The criminal penalties are
23 as follows: (1) simple misdemeanor, confinement for no more
24 than 30 days or a fine of at least \$65 but not more than \$625 or
25 by both; (2) serious misdemeanor, confinement for no more than
26 one year and a fine of at least \$315 but not more than \$1,875;
27 (3) aggravated misdemeanor, confinement for no more than two
28 years and a fine of at least \$625 but not more than \$6,250; (4)
29 class "D" felony, confinement for no more than five years and a
30 fine of at least \$750 but not more than \$7,500; and (5) class
31 "C" felony, confinement for no more than 10 years and a fine of
32 at least \$1,000 but not more than \$10,000.

33 COURT ORDERS. At the time of conviction for committing
34 any of the offenses, a person may be subject to a court order
35 requiring a psychological or psychiatric evaluation and

1 treatment. The person may also be subject to a court order
2 prohibiting the person from owning, possessing, or living with
3 an animal of the same genus as the mistreated animal. In each
4 case, the court's decision to issue an order is discretionary
5 except under certain conditions. A court order requiring an
6 evaluation and treatment is mandatory for juveniles. That
7 order and the order prohibiting contact with animals is
8 also mandatory if the offense is punishable as an aggravated
9 misdemeanor or felony. For a discretionary court order,
10 the period of prohibition is from one to five years. For a
11 mandatory court order, the period of prohibition is as follows:
12 (1) one to five years for an aggravated misdemeanor, (2) 5 to
13 15 years for a class "D" felony, and (3) life for a class "C"
14 felony.

15 ANIMAL RESCUE. A law enforcement officer (e.g., county
16 sheriff or deputy sheriff) is authorized to rescue an animal
17 from a motor vehicle based upon the officer's reasonable belief
18 that the animal may be suffering distress. The officer must
19 provide a written notice of the rescue. After the rescue, the
20 animal must be maintained as a rescued animal by the local
21 authority until it is claimed or disposed of pursuant to court
22 order.

23 MANDATORY REPORTING. A veterinarian is required to report
24 cases in which an animal may have suffered a serious injury due
25 to animal abuse, animal neglect, or animal torture. The board
26 of veterinary medicine may prescribe the form of the report.
27 The report must be submitted to the local law enforcement
28 agency having jurisdiction of the matter.

29 STATE MANDATE. The bill may include a state mandate as
30 defined in Code section 25B.3. The bill makes inapplicable
31 Code section 25B.2, subsection 3, which would relieve a
32 political subdivision from complying with a state mandate if
33 funding for the cost of the state mandate is not provided or
34 specified. Therefore, political subdivisions are required to
35 comply with any state mandate included in the bill.