

House File 2065 - Introduced

HOUSE FILE 2065

BY WOLFE

A BILL FOR

1 An Act prohibiting the mistreatment of animals excluding
2 livestock or unconfined wildlife, 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 board is precluded
12 from concluding that an animal is being subjected to animal
13 cruelty if the animal is provided care in a manner that would
14 meet the standard of care for that species of animal under
15 state law as enforced by the department of agriculture and land
16 stewardship and under federal law as enforced by the United
17 States department of agriculture. The conclusion must at least
18 be based on clinical indications that if true could reasonably
19 constitute elements of animal abuse in the first degree as
20 described in section 717B.2, subsection 1, or animal torture as
21 described in section 717B.3A, subsection 1.

22 c. Notwithstanding section 169.3, for purposes of this
23 section, "animal" means the same as defined in section 717B.1.

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

26 a. The name and description of the animal.

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

29 c. A description of the nature and extent of the indications
30 of animal cruelty.

31 d. Any evidence indicating that the animal has been
32 subjected to animal cruelty previously.

33 e. Any other information required by the local law
34 enforcement agency that may be of value in conducting a
35 criminal investigation.

1 3. The board may prepare and distribute a form for use
2 by a person completing and submitting a report under this
3 section and by a local law enforcement agency filing the
4 report under section 717B.10. The form shall replace the
5 information required to be completed in subsection 2. However,
6 the report must at least require the completion of information
7 necessary for a law enforcement officer to interview the person
8 submitting the report and conduct an investigation regarding
9 the commission of a public offense described in subsection
10 1. The board may consult the department of public safety when
11 preparing the form and may provide the form to the department
12 of agriculture and land stewardship or the department of public
13 safety for publication on the internet site of the respective
14 department.

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

25 Sec. 2. Section 717B.1, Code 2018, is amended by adding the
26 following new subsections:

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

35 b. "*Convicted*" includes the conviction of a juvenile

1 prosecuted as an adult. "Convicted" also includes a conviction
2 for an attempt or conspiracy to commit an offense.

3 c. "Convicted" does not mean a plea, sentence, adjudication,
4 deferred sentence, or deferred judgment which has been reversed
5 or otherwise set aside.

6 NEW SUBSECTION. 4A. "Injury" means an impairment to an
7 animal's health or functions, including physical damage or harm
8 to an animal's muscle, tissue, organs, bones, hide, or skin,
9 that causes the animal to suffer pain.

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

14 NEW SUBSECTION. 8A. "Serious injury" means an injury that
15 creates a substantial risk of death or that causes protracted
16 disfigurement, protracted impairment of health, or protracted
17 loss or impairment of the function of a limb or organ.

18 Sec. 3. Section 717B.1, subsection 9, Code 2018, is amended
19 to read as follows:

20 9. "Threatened animal" means an animal that ~~is abused as~~
21 ~~provided~~ suffers mistreatment due to animal abuse as described
22 in section 717B.2 or 717B.2A, neglected animal neglect as
23 ~~provided~~ described in section 717B.3, or tortured animal
24 torture as provided described in section 717B.3A.

25 Sec. 4. Section 717B.2, Code 2018, is amended to read as
26 follows:

27 **717B.2 Animal abuse in the first degree — penalties.**

28 1. A person is guilty of animal abuse if the person
29 intentionally injures, maims, disfigures, or destroys an animal
30 owned by another person, in any manner, including intentionally
31 poisoning the animal commits animal abuse in the first degree
32 if the person knowingly or recklessly causes serious injury or
33 death to an animal by force, violence, or poisoning. A person
34 guilty of animal abuse is guilty of an aggravated misdemeanor.

35 2. This section shall not apply to conduct engaged in by any

1 of the following:

2 ~~1. A person acting with the consent of the person owning~~
3 ~~the animal, unless the action constitutes animal neglect as~~
4 ~~provided in [section 717B.3](#).~~

5 ~~2. a. A person acting to carry out an order issued by a~~
6 ~~court.~~

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

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

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

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

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

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

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

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

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

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

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

35 a. The offense was committed by an adult when a juvenile was

1 physically present.

2 b. The person has previously been convicted of any of the
3 following:

4 (1) Animal abuse pursuant to this section or section
5 717B.2A, animal neglect pursuant to section 717B.3, animal
6 torture pursuant to section 717B.3A, injury or interference
7 with a police service dog pursuant to section 717B.9,
8 bestiality pursuant to section 717C.1, or committing an act
9 involving a contest event prohibited in section 717D.2.

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

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

19 1. A person commits animal abuse in the second degree if
20 the person knowingly or recklessly causes injury or death to an
21 animal by force, violence, or poisoning.

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

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

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

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

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

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

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

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. 6. Section 717B.3A, Code 2018, 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 the person
16 inflicts upon the animal severe and prolonged or repeated
17 physical pain with a depraved or sadistic intent to cause that
18 results in the animal's prolonged suffering and serious injury
19 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.3, animal torture
12 pursuant to this section, injury or interference with a police
13 service dog pursuant to section 717B.9, bestiality pursuant to
14 section 717C.1, or committing an act involving a contest event
15 prohibited in section 717D.2.

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

23 **Sec. 7. NEW SECTION. 717B.3D Animal mistreatment — court**
24 **order — evaluation and treatment.**

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

32 a. A juvenile.

33 b. An adult committing animal abuse pursuant to section
34 717B.2 or 717B.2A or animal torture pursuant to section
35 717B.3A.

1 2. The costs of undergoing a psychological or psychiatric
2 evaluation and undergoing any treatment ordered by the court
3 shall be borne by the convicted person, unless the person is
4 a juvenile.

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

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

9 Sec. 8. NEW SECTION. 717B.3E Animal mistreatment —
10 sentencing order — prohibitions.

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

19 2. Notwithstanding subsection 1, the court shall enter
20 such an order if the convicted person has committed animal
21 abuse pursuant to section 717B.2 or 717B.2A, or animal torture
22 pursuant to section 717B.3A. The period of such prohibition
23 shall be as follows:

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

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

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

27 3. The duration of a prohibition described in this
28 section commences on the date that the person is placed on
29 probation, released on parole or work release, or released from
30 incarceration or from placement in a juvenile facility.

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

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

1 Sec. 9. Section 717B.5, subsection 1, Code 2018, is amended
2 to read as follows:

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

18 Sec. 10. NEW SECTION. **717B.10 Reports.**

19 1. A local law enforcement agency shall accept and file
20 an animal cruelty report submitted by a person as provided in
21 section 169.21. The report may be used as the basis for an
22 investigation or criminal complaint or information under this
23 chapter, or for determining whether to perform a rescue under
24 section 717B.5.

25 2. *a.* A local law enforcement agency shall file a child
26 endangerment alert report with the department of human services
27 if all of the following apply:

28 (1) A law enforcement officer employed by the law
29 enforcement agency conducts an investigation of a suspected
30 offense of animal abuse as described in section 717B.2 or
31 717B.2A, animal neglect as described in section 717B.3, or
32 animal torture as described in section 717B.3A.

33 (2) The law enforcement officer reasonably believes that a
34 minor child of the subject of the investigation witnessed the
35 commission of the offense.

1 **b.** The report shall be filed in a manner and according to
2 procedures required by the department of human services.

3 **c.** The report shall be a confidential record in the same
4 manner as a peace officer's investigative report under section
5 22.7, subsection 5.

6 Sec. 11. IMPLEMENTATION OF ACT. Section 25B.2, subsection
7 3, shall not apply to this Act.

8 EXPLANATION

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

11 GENERAL. This bill amends Code chapter 717B prohibiting
12 the mistreatment of certain animals, including dogs and cats,
13 but excluding other animals such as livestock (Code chapter
14 717); game, fur-bearing animals, fish, reptiles, or amphibians
15 (Code chapter 481A), unless such animal is owned, confined,
16 or controlled by a person; or a nongame animal declared to be
17 a nuisance by the natural resource commission (Code section
18 481A.42).

19 The bill amends or creates three criminal offenses,
20 including animal abuse in the first or second degree (amended
21 Code section 717B.2 and new Code section 717B.2A), and animal
22 torture (amended Code section 717B.3A). The bill applies in
23 part to the offense of animal neglect (Code section 717B.3)
24 but does not amend the statute. Each of the amended or new
25 offenses includes an enhanced penalty that applies to a
26 convicted person in either of two situations: (1) the person
27 is an adult who committed the offense in the presence of a
28 juvenile or (2) the person has previously committed any of the
29 offenses previously described (abuse, torture, or neglect);
30 committed injury or interference with a police service dog
31 (Code section 717B.9); committed bestiality (Code section
32 717C.1); committed an offense involving an animal contest (Code
33 section 717D.2); or committed any similar offense in another
34 state.

35 TYPES OF CRIMINAL OFFENSES — ABUSE, TORTURE, AND NEGLECT.

1 Animal abuse involves injuring an animal by violence or
2 poisoning; and animal torture involves inflicting upon the
3 animal severe and prolonged or repeated physical pain. For
4 animal abuse in the first degree or animal torture, the
5 animal must suffer a serious injury or death. Serious injury
6 involves a substantial risk of death, protracted disfigurement,
7 impairment, or a loss or impairment of a limb. For animal
8 abuse in the second degree, the animal must suffer an injury
9 meaning some impairment to the animal's health or functions,
10 or death. For these offenses, the criminal penalties are as
11 follows: (1) animal abuse in the first degree, an aggravated
12 misdemeanor which may be enhanced to a class "D" felony; (2)
13 animal abuse in the second degree, a serious misdemeanor which
14 may be enhanced to an aggravated misdemeanor; and (3) animal
15 torture, a class "D" felony which may be enhanced to a class
16 "C" felony.

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

27 Under current law, animal neglect involves failing to
28 provide an animal with adequate food, water, or habitable
29 conditions. A person who negligently or intentionally
30 commits the offense of animal neglect is guilty of a simple
31 misdemeanor. A person who intentionally commits the offense of
32 animal neglect which results in serious injury to or the death
33 of an animal is guilty of a serious misdemeanor.

34 APPLICABLE CRIMINAL PENALTIES. The criminal penalties are
35 as follows: (1) simple misdemeanor, confinement for no more

1 than 30 days or a fine of at least \$65 but not more than \$625 or
2 by both; (2) serious misdemeanor, confinement for no more than
3 one year and a fine of at least \$315 but not more than \$1,875;
4 (3) aggravated misdemeanor, confinement for no more than two
5 years and a fine of at least \$625 but not more than \$6,250; (4)
6 class "D" felony, confinement for no more than five years and a
7 fine of at least \$750 but not more than \$7,500; and (5) class
8 "C" felony, confinement for no more than 10 years and a fine of
9 at least \$1,000 but not more than \$10,000.

10 COURT ORDERS. At the time of conviction for committing
11 any of the offenses, a person may be subject to a court order
12 requiring a psychological or psychiatric evaluation and
13 treatment. The person may also be subject to a court order
14 prohibiting the person from owning, possessing, or living with
15 an animal of the same genus as the mistreated animal. In each
16 case, the court's decision to issue an order is discretionary
17 except under certain conditions. A court order requiring an
18 evaluation and treatment is mandatory for juveniles. That
19 order and the order prohibiting contact with animals is
20 also mandatory if the offense is punishable as an aggravated
21 misdemeanor or felony. For a discretionary court order,
22 the period of prohibition is from one to five years. For a
23 mandatory court order, the period of prohibition is as follows:
24 (1) one to five years for an aggravated misdemeanor, (2) 5 to
25 15 years for a class "D" felony, and (3) life for a class "C"
26 felony.

27 MANDATORY REPORTING — VETERINARIANS TO LOCAL LAW
28 ENFORCEMENT AGENCIES. A veterinarian is required to report
29 cases in which an animal may have suffered a serious injury due
30 to animal abuse or animal torture. The board of veterinary
31 medicine may prescribe the form of the report. The report
32 must be submitted to the local law enforcement agency having
33 jurisdiction of the matter.

34 MANDATORY REPORTING — LOCAL LAW ENFORCEMENT AGENCIES TO THE
35 DEPARTMENT OF HUMAN SERVICES. A local law enforcement agency

1 must submit a report to the department of human services if a
2 law enforcement officer conducts an investigation involving
3 animal abuse, animal neglect, or animal torture and reasonably
4 believes a minor child of the subject of the investigation
5 witnessed the offense being committed.

6 STATE MANDATE. The bill may include a state mandate as
7 defined in Code section 25B.3. The bill makes inapplicable
8 Code section 25B.2, subsection 3, which would relieve a
9 political subdivision from complying with a state mandate if
10 funding for the cost of the state mandate is not provided or
11 specified. Therefore, political subdivisions are required to
12 comply with any state mandate included in the bill.