

HOUSE BILL No. 2206

By Committee on Judiciary

2-8

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to cruelty to animals; amending K.S.A. 2018 Supp. 21-6412 and
3 repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2018 Supp. 21-6412 is hereby amended to read as
7 follows: 21-6412. (a) Cruelty to animals is:

8 (1) Knowingly and maliciously killing, injuring, maiming, torturing,
9 burning or mutilating any animal;

10 (2) knowingly abandoning any animal in any place without making
11 provisions for its proper care;

12 (3) having physical custody of any animal and knowingly failing to
13 provide such food, potable water, protection from the elements,
14 opportunity for exercise and other care as is needed for the health or well-
15 being of such kind of animal;

16 (4) intentionally using a wire, pole, stick, rope or any other object to
17 cause an equine to lose its balance or fall, for the purpose of sport or
18 entertainment;

19 (5) knowingly but not maliciously killing or injuring any animal; or

20 (6) knowingly and maliciously administering any poison to any
21 domestic animal.

22 (b) Cruelty to animals as defined in:

23 (1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction
24 of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than
25 30 days or more than one year's imprisonment and be fined not less than
26 \$500 nor more than \$5,000. The person convicted shall not be eligible for
27 release on probation, suspension or reduction of sentence or parole until
28 the person has served the minimum mandatory sentence as provided
29 herein. During the mandatory 30 days imprisonment, such offender shall
30 have a psychological evaluation prepared for the court to assist the court in
31 determining conditions of probation. Such conditions shall include, but not
32 be limited to, the completion of an anger management program; and

33 (2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

34 (A) Class A nonperson misdemeanor, except as provided in
35 subsection (b)(2)(B); and

36 (B) nonperson felony upon the second or subsequent conviction of

1 cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5).
2 Upon such conviction, a person shall be sentenced to not less than five
3 days or more than one year's imprisonment and be fined not less than \$500
4 nor more than \$2,500. The person convicted shall not be eligible for
5 release on probation, suspension or reduction of sentence or parole until
6 the person has served the minimum mandatory sentence as provided
7 herein.

8 (c) The provisions of this section shall not apply to:

9 (1) Normal or accepted veterinary practices;

10 (2) bona fide experiments carried on by commonly recognized
11 research facilities;

12 (3) killing, attempting to kill, trapping, catching or taking of any
13 animal in accordance with the provisions of chapter 32 or chapter 47 of the
14 Kansas Statutes Annotated, and amendments thereto;

15 (4) rodeo practices accepted by the rodeo cowboys' association;

16 (5) the humane killing of an animal that is diseased or disabled
17 beyond recovery for any useful purpose, or the humane killing of animals
18 for population control, by the owner thereof or the agent of such owner
19 residing outside of a city or the owner thereof within a city if no animal
20 shelter or licensed veterinarian is within the city, or by a licensed
21 veterinarian at the request of the owner thereof, or by any officer or agent
22 of an animal shelter, a local or state health officer or a licensed
23 veterinarian three business days following the receipt of any such animal
24 at such shelter;

25 (6) with respect to farm animals, normal or accepted practices of
26 animal husbandry, including the normal and accepted practices for the
27 slaughter of such animals for food or by-products and the careful or thrifty
28 management of one's herd or animals, including animal care practices
29 common in the industry or region;

30 (7) the killing of any animal by any person at any time that may be
31 found outside of the owned or rented property of the owner or custodian of
32 such animal and that is found injuring or posing a threat to any person,
33 farm animal or property;

34 (8) an animal control officer trained by a licensed veterinarian in the
35 use of a tranquilizer gun, using such gun with the appropriate dosage for
36 the size of the animal, when such animal is vicious or could not be
37 captured after reasonable attempts using other methods;

38 (9) laying an equine down for medical or identification purposes;

39 (10) normal or accepted practices of pest control, as defined in K.S.A.
40 2-2438a(x), and amendments thereto; or

41 (11) accepted practices of animal husbandry pursuant to regulations
42 promulgated by the United States department of agriculture for domestic
43 pet animals under the animal welfare act, public law 89-544, as amended

1 and in effect on July 1, 2006.

2 (d) The provisions of subsection (a)(6) shall not apply to any person
3 exposing poison upon their premises for the purpose of destroying wolves,
4 coyotes or other predatory animals.

5 (e) Any public health officer, law enforcement officer, licensed
6 veterinarian or officer or agent of any animal shelter or other appropriate
7 facility may take into custody any animal, upon either private or public
8 property, that clearly shows evidence of cruelty to animals. Such officer,
9 agent or veterinarian may inspect, care for or treat such animal or place
10 such animal in the care of an animal shelter or licensed veterinarian for
11 treatment, boarding or other care or, if an officer of such animal shelter or
12 such veterinarian determines that the animal appears to be diseased or
13 disabled beyond recovery for any useful purpose, for humane killing. The
14 owner or custodian, if known or reasonably ascertainable, shall be notified
15 in writing. If the owner or custodian is charged with a violation of this
16 section, the law enforcement agency, district attorney's office, county
17 prosecutor, veterinarian or animal shelter may petition the district court in
18 the county in which the animal was taken into custody to transfer
19 ownership of the animal at any time after 21 days after the owner or
20 custodian is notified ~~or, unless the owner or custodian of the animal files~~
21 ~~and maintains a renewable cash or performance bond with the county~~
22 ~~clerk of the county in which the animal was taken into custody in an~~
23 ~~amount equal to not less than the cost of care and treatment of the animal~~
24 ~~for 30 days. Such cash or performance bond shall be maintained and~~
25 ~~renewed every 30 days as necessary to cover the cost of care and~~
26 ~~treatment of such animal until disposition of the animal by the court.~~ If the
27 owner or custodian is not known or reasonably ascertainable after 21 days
28 after the animal is taken into custody, ~~unless the owner or custodian of the~~
29 ~~animal files a renewable cash or performance bond with the county clerk~~
30 ~~of the county where the animal is being held, in an amount equal to not~~
31 ~~less than the cost of care and treatment of the animal for 30 days the law~~
32 ~~enforcement agency, district attorney's office, county prosecutor,~~
33 ~~veterinarian or animal shelter may petition the district court in the county~~
34 ~~in which the animal was taken into custody to transfer ownership of the~~
35 ~~animal. Upon receiving such petition, the court shall determine whether~~
36 the animal may be transferred.

37 (f) The owner or custodian of an animal transferred pursuant to
38 subsection (e) shall not be entitled to recover damages for the transfer of
39 such animal unless the owner proves that such transfer was unwarranted.

40 (g) Expenses incurred for the care, treatment or boarding of any
41 animal, taken into custody pursuant to subsection (e), pending prosecution
42 of the owner or custodian of such animal for the crime of cruelty to
43 animals, shall be assessed to the owner or custodian as a cost of the case if

1 the owner or custodian is adjudicated guilty of such crime. *Any costs*
2 *collected by the court or through the cash or performance bond described*
3 *in subsection (e) shall be transferred to the entity responsible for paying*
4 *the cost of the care, treatment or boarding of the animal.*

5 (h) If a person is adjudicated guilty of the crime of cruelty to animals,
6 such animal shall not be returned to or remain with such person. Such
7 animal may be turned over to an animal shelter or licensed veterinarian for
8 sale or other disposition.

9 (i) As used in this section:

10 (1) "Animal shelter" means the same as such term is defined in
11 K.S.A. 47-1701, and amendments thereto;

12 (2) "equine" means a horse, pony, mule, jenny, donkey or hinny; and

13 (3) "maliciously" means a state of mind characterized by actual evil-
14 mindedness or specific intent to do a harmful act without a reasonable
15 justification or excuse.

16 Sec. 2. K.S.A. 2018 Supp. 21-6412 is hereby repealed.

17 Sec. 3. This act shall take effect and be in force from and after its
18 publication in the statute book.