

SENATE BILL No. 503

By Committee on Federal and State Affairs

2-12

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to crimes against public morals; cruelty to animals; increasing the
3 criminal penalties for knowingly and maliciously abandoning any
4 animal in any place without making provisions for the proper care of
5 the animal; amending K.S.A. 21-6412 and repealing the existing
6 section.

7
8 WHEREAS, The amendments made to K.S.A. 21-6412 by this act shall
9 be known as Bowie's law.

10 Now, therefore:

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 21-6412 is hereby amended to read as follows: 21-
13 6412. (a) Cruelty to animals is:

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

16 (2) *knowingly and maliciously abandoning any animal in any place*
17 *without making provisions for the proper care of the animal;*

18 (3) knowingly abandoning any animal in any place without making
19 provisions for ~~its~~ *the proper care of the animal;*

20 ~~(3)(4)~~ (4) having physical custody of any animal and knowingly failing
21 to provide such food, potable water, protection from the elements,
22 opportunity for exercise and other care as is needed for the health or well-
23 being of such kind of animal;

24 ~~(4)(5)~~ (5) intentionally using a wire, pole, stick, rope or any other object
25 to cause an equine to lose its balance or fall, for the purpose of sport or
26 entertainment;

27 ~~(5)(6)~~ (6) knowingly but not maliciously killing or injuring any animal;
28 or

29 ~~(6)(7)~~ (7) knowingly and maliciously administering any poison to any
30 domestic animal.

31 (b) Cruelty to animals as defined in:

32 (1) Subsection (a)(1) ~~or (a)(6)~~, (a)(2) or (a)(7) is a nonperson felony.
33 Upon conviction of a violation of subsection (a)(1) ~~or (a)(6)~~, (a)(2) or (a)
34 (7), a person shall be sentenced to not less than 30 days or more than one
35 ~~year's~~ *year of* imprisonment and ~~be~~ fined not less than \$500 nor more than
36 \$5,000. The person convicted shall not be eligible for release on probation,

1 suspension or reduction of sentence or parole until the person has served
 2 the minimum mandatory sentence as provided ~~herein~~ *in this paragraph*.
 3 During the mandatory 30 days of imprisonment, such offender shall have a
 4 psychological evaluation prepared for the court to assist the court in
 5 determining conditions of probation. Such conditions shall include, but not
 6 be limited to, the completion of an anger management program; and

7 (2) subsection ~~(a)(2)~~, (a)(3), ~~(a)(4)~~ ~~or~~, (a)(5) *or (a)(6)* is a:

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

10 (B) nonperson felony upon the second or subsequent conviction of
 11 cruelty to animals as defined in subsection ~~(a)(2)~~, (a)(3), ~~(a)(4)~~ ~~or~~, (a)(5)
 12 *or (a)(6)*. Upon such conviction, a person shall be sentenced to not less
 13 than five days or more than one ~~year's~~ *year of* imprisonment and be fined
 14 not less than \$500 nor more than \$2,500. The person convicted shall not be
 15 eligible for release on probation, suspension or reduction of sentence or
 16 parole until the person has served the minimum mandatory sentence as
 17 provided ~~herein~~ *in this paragraph*.

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

19 (1) Normal or accepted veterinary practices;

20 (2) bona fide experiments carried on by commonly recognized
 21 research facilities;

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

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

26 (5) the humane killing of an animal that is diseased or disabled
 27 beyond recovery for any useful purpose, or the humane killing of animals
 28 for population control, by the owner thereof or the agent of such owner
 29 residing outside of a city or the owner thereof within a city if no animal
 30 shelter or licensed veterinarian is within the city, or by a licensed
 31 veterinarian at the request of the owner thereof, or by any officer or agent
 32 of an animal shelter, a local or state health officer or a licensed
 33 veterinarian three business days following the receipt of any such animal
 34 at such shelter;

35 (6) with respect to farm animals, normal or accepted practices of
 36 animal husbandry, including the normal and accepted practices for the
 37 slaughter of such animals for food or by-products and the careful or thrifty
 38 management of one's herd or animals, including animal care practices
 39 common in the industry or region;

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

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

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

6 (10) normal or accepted practices of pest control, as defined in K.S.A.
7 2-2438a(x), and amendments thereto; or

8 (11) accepted practices of animal husbandry pursuant to regulations
9 promulgated by the United States department of agriculture for domestic
10 pet animals under the animal welfare act, public law 89-544, as amended
11 and in effect on July 1, 2006.

12 (d) The provisions of subsection ~~(a)(6)~~ (a)(7) shall not apply to any
13 person exposing poison upon their premises for the purpose of destroying
14 wolves, coyotes or other predatory animals.

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

43 (f) The owner or custodian of an animal transferred pursuant to

1 subsection (e) shall not be entitled to recover damages for the transfer of
2 such animal unless the owner proves that such transfer was unwarranted.

3 (g) Expenses incurred for the care, treatment or boarding of any
4 animal, taken into custody pursuant to subsection (e), pending prosecution
5 of the owner or custodian of such animal for the crime of cruelty to
6 animals, shall be assessed to the owner or custodian as a cost of the case if
7 the owner or custodian is adjudicated guilty of such crime. Any costs
8 collected by the court or through the cash or performance bond described
9 in subsection (e) shall be transferred to the entity responsible for paying
10 the cost of the care, treatment or boarding of the animal.

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

15 (i) As used in this section:

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

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

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

22 Sec. 2. K.S.A. 21-6412 is hereby repealed.

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