

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 2436

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VAN SCHOIACK.

4194H.02P

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 273.100, 578.009, 578.012, 578.018, and 578.022, RSMo, and to enact in lieu thereof five new sections relating to offenses involving animals, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 273.100, 578.009, 578.012, 578.018, and 578.022, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 578.006,
3 578.009, 578.012, 578.018, and 578.022, to read as follows:

**578.006. 1. A person commits the offense of making a malicious false report of
2 animal abuse if:**

3 **(1) The person purposely makes a report to a law enforcement agency or an
4 applicable government agency alleging the abuse of any animal in a manner punishable
5 under section 578.012;**

6 **(2) The person knows that such a report is false;**

7 **(3) The person makes the report with the purpose of disrupting, harassing,
8 causing a monetary loss to, or disturbing the peace of the owner of the animal; and**

9 **(4) Such report causes a disruption, harassment, monetary loss, or disturbance
10 of the owner of the animal.**

11 **2. The offense of making a malicious false report of animal abuse is a class C
12 misdemeanor.**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 **3. It shall be an absolute defense for a prosecution of the offense of making a**
14 **malicious false report of animal abuse if the reporting party reported an incident of**
15 **animal abuse out of a good faith, reasonable belief that an animal was being abused.**
16 **The defendant shall have the burden of injecting this defense under this subsection. If a**
17 **defendant asserts that his or her report of animal abuse was made from a good faith,**
18 **reasonable belief that an animal was being abused, the state shall have the burden to**
19 **prove beyond a reasonable doubt that the defendant did not have a good faith,**
20 **reasonable belief that such a report was true.**

578.009. 1. A person commits the offense of animal neglect if he or she:

- 2 (1) Has custody or ownership of an animal and fails to provide adequate care; [øæ]
- 3 (2) **Has custody or ownership of an animal, excluding livestock as defined in**
4 **section 265.300, and fails to provide adequate control; or**
- 5 (3) Knowingly abandons an animal in any place without making provisions for its
6 adequate care **or adequate control.**
- 7 2. The offense of animal neglect is a class C misdemeanor unless the person:
- 8 (1) Has previously been found guilty of an offense under this section, or an offense in
9 another jurisdiction which would constitute an offense under this section, in which case it is a
10 class B misdemeanor;
- 11 (2) **Fails to provide adequate care or adequate control that results in property**
12 **damage of another, in which case it is a class B misdemeanor; however, if such damage**
13 **exceeds seven hundred fifty dollars, it is a class E felony;**
- 14 (3) **Fails to provide adequate care or adequate control that results in physical**
15 **injury, as defined in 556.061, to a person, in which case it is a class A misdemeanor;**
- 16 (4) **Fails to provide adequate care or adequate control that results in serious**
17 **physical injury, as defined in section 556.061, to a person, in which case it is a class E**
18 **felony; or**
- 19 (5) **Fails to provide adequate care or adequate control that results in death to a**
20 **person, in which case it is a class D felony.**

21 3. ~~[All fines and penalties for a first finding of guilt under this section may be waived~~
22 ~~by the court if the person found guilty of animal neglect shows that adequate, permanent~~
23 ~~remedies for the neglect have been made. Reasonable costs incurred for the care and~~
24 ~~maintenance of neglected animals may not be waived. This section shall not apply to the~~
25 ~~provisions of section 578.007 or chapter 272.~~

26 4.] In addition to any other penalty imposed by this section, the court may order a
27 person found guilty of animal neglect to pay all reasonable costs and expenses necessary for:

- 28 (1) The care and maintenance of neglected animals within the person's custody or
29 ownership;

30 (2) The disposal of any dead or diseased animals within the person's custody or
31 ownership;

32 (3) The reduction of resulting organic debris affecting the immediate area of the
33 neglect; and

34 (4) The avoidance or minimization of any public health risks created by the neglect of
35 the animals.

36 **4. Nothing in this section shall be construed to apply to the acts or facilities**
37 **exempted under section 578.007.**

578.012. 1. A person commits the offense of animal abuse if he or she:

2 (1) Intentionally or purposely kills an animal in any manner not allowed by or
3 expressly exempted from the provisions of sections 578.005 to 578.023 and 273.030;

4 (2) Purposely or intentionally causes injury or suffering to an animal; or

5 (3) Having ownership or custody of an animal knowingly fails to provide adequate
6 care which results in substantial harm to the animal.

7 2. Animal abuse is a class A misdemeanor, unless the defendant has previously been
8 found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of
9 this section is the result of torture ~~[or]~~, mutilation ~~[consciously]~~, or starvation knowingly
10 inflicted while the animal was alive, in which case it is a class E felony.

578.018. 1. Any ~~[duly authorized public health official or]~~ law enforcement official
2 may seek a warrant from the appropriate **circuit** court to enable ~~[him or her]~~ **the law**
3 **enforcement official** to enter private property in order to inspect, care for, or impound
4 neglected or abused animals **as set forth in such warrant**. All requests for such warrants
5 shall be **signed, witnessed, and** accompanied by an affidavit stating the probable cause to
6 believe a violation of sections 578.005 to ~~[578.023]~~ **578.025** has occurred. A person acting
7 under the authority of a warrant shall:

8 (1) ~~[Be given]~~ **Appear at** a disposition hearing before the court through which the
9 warrant was issued, within thirty days of the filing of the request **for the warrant** for the
10 purpose of granting immediate disposition of the animals impounded. **No animal shall be**
11 **sterilized prior to the completion of such disposition hearing unless necessary to save life**
12 **or relieve suffering;**

13 (2) Place impounded animals in the care or custody of a veterinarian, the appropriate
14 animal control authority, ~~[or]~~ an animal shelter, **or a third party approved by the court**. If
15 no appropriate veterinarian, animal control authority, ~~[or]~~ animal shelter, **or third party** is
16 available, the animal shall not be impounded unless it is diseased or disabled beyond recovery
17 for any useful purpose;

18 (3) Humanely kill any animal impounded if it is determined by a licensed veterinarian
19 that the animal is diseased or disabled beyond recovery for any useful purpose;

20 (4) Not be liable for any **reasonable and** necessary damage to property while acting
21 under such warrant.

22 2. (1) **The owner of any animal that has been impounded under this section shall**
23 **not be responsible for the animal's care and keeping prior to a disposition hearing if, at**
24 **the disposition hearing, there is no finding of neglect or abuse by the court and the court**
25 **orders the animal returned to the owner.**

26 (2) **If, at the disposition hearing, the court finds that neglect or abuse likely**
27 **occurred and does not order the animal returned to the owner, after completion of the**
28 **disposition hearing** the owner or custodian or any person claiming an interest in any animal
29 that has been impounded because of neglect or abuse may prevent disposition of the animal
30 **after the disposition hearing and until final judgment, settlement, or dismissal of any**
31 **criminal charges** by posting **reasonable** bond or security **within seventy-two hours of the**
32 **disposition hearing** in an amount sufficient to provide for the animal's care and keeping [~~for~~
33 ~~at least thirty days, inclusive of the date on which the animal was taken into custody]~~ **and**
34 **consistent with the fair market cost of boarding such an animal in an appropriate retail**
35 **boarding facility.** Notwithstanding the fact that **reasonable** bond may be posted pursuant to
36 this [~~subsection]~~ **subdivision**, the authority having custody of the animal may humanely
37 dispose of the animal at the end of the time for which **reasonable** expenses are covered by the
38 bond or security, unless there is a court order prohibiting such disposition. Such order shall
39 provide for a **reasonable** bond or other security in the amount necessary to protect the
40 authority having custody of the animal from any cost of the care, keeping, or disposal of the
41 animal.

42 (3) The authority taking custody of an animal shall give notice of the provisions of
43 this section by posting a copy of this section at the place where the animal was taken into
44 custody or by delivering it to a person residing on the property.

45 3. The owner or custodian of any animal humanely killed pursuant to this section
46 shall not be entitled to recover any damages related to nor the actual value of the animal if the
47 animal was found by a licensed veterinarian to be diseased or disabled **beyond recovery for**
48 **any useful purpose**, or if the owner or custodian failed to post bond or security for the care,
49 keeping, and disposition of the animal after being notified of impoundment **and after**
50 **completion of the disposition hearing.**

51 4. **All animals impounded under this section shall receive proper care as**
52 **determined by state law and regulations for each specific animal and facility or**
53 **organization where the animal is placed after such impoundment. Any such facility or**
54 **organization shall be liable to the animal owner for damages for any negligent acts or**
55 **abuse of such animal that occurs while the animal is in the care, custody, and control of**
56 **the facility or organization.**

57 **5. In the event that the animal owner is not liable for the costs incurred for the**
58 **placement and care of an animal or animals while charges were pending, such costs**
59 **relating to placement and care, as well as liability for the life or death of the animal and**
60 **for medical procedures performed while charges were pending, shall be the**
61 **responsibility of and shall be borne and paid by the facility or organization that**
62 **impounded the animal. Such costs shall be consistent with the fair market value of**
63 **boarding an animal at a retail establishment and with the usual and customary costs of**
64 **veterinary medical services provided by a clinic licensed under chapter 340.**

65 **6. If the owner posted a sufficient bond and is acquitted or there is a final**
66 **discharge without conviction, unless there is a settlement agreement, consent judgment,**
67 **or a suspended imposition of sentence, the owner may demand the return of the animal**
68 **held in custody. Any entity with care, custody, and control of such animal shall**
69 **immediately return such animal to the owner upon demand and proof of such acquittal**
70 **or final discharge without conviction. Upon acquittal or final discharge without**
71 **conviction, unless there is a settlement agreement, consent judgment, or a suspended**
72 **imposition of sentence, the owner shall not be liable for any costs incurred relating to**
73 **the placement or care of the animal during the pendency of the charges.**

74 **7. Any person or entity that intentionally euthanizes, other than as permissible**
75 **under this section, or intentionally sterilizes an animal prior to a disposition hearing or**
76 **during any period for which reasonable bond was secured for the animal's care is guilty**
77 **of a class B misdemeanor and shall be liable to the owner of the animal for damages**
78 **including, but not limited to, the actual value of the animal. Each violation against each**
79 **individual animal is a separate offense. Any second or subsequent violation is a class A**
80 **misdemeanor and any entity licensed under state law shall be subject to licensure**
81 **sanction by its governing body.**

 578.022. Any dog that is owned, or the service of which is employed, by a law
2 enforcement agency and that bites or injures another animal or human in the course of their
3 official duties is exempt from the provisions of sections 273.033, 273.036, **578.009**, 578.012,
4 and 578.024.

~~[273.100. 1. Every city or town marshal of every incorporated city or
2 town in this state, within their jurisdiction, shall take up and impound in a
3 suitable place, the location of which place shall be given by a notice posted in
4 some conspicuous place in his office, all dogs found running at large in their
5 respective cities or towns without collars around their necks, marked as herein
6 provided, and they shall keep such dogs for a period of one week, and at the
7 expiration of such period shall put such dogs to death by humane methods.~~

~~2. The owner of any such impounded dogs, upon the payment of the
9 tax herein provided, and a redemption fee of five dollars, may redeem such~~

10 ~~impounded dog and the city or town marshal shall be permitted to retain the~~
11 ~~sum of two dollars out of each redemption fee so paid, and shall pay over the~~
12 ~~balance of the fee on the first day of each month to the treasurer of the county~~
13 ~~in which the city or town marshal has jurisdiction, to be accounted for by the~~
14 ~~treasurers in the same manner as they are required by sections 273.040 to~~
15 ~~273.180, to account for licenses taxes.~~

16 ~~3. Any marshal who shall fail or refuse to take up and impound any~~
17 ~~such dog shall be guilty of a misdemeanor and on conviction thereof fined not~~
18 ~~less than five dollars nor more than twenty five dollars.]~~

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