

FIRST REGULAR SESSION

SENATE BILL NO. 490

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS DOUGHERTY AND LOUDON.

Read 1st time February 14, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1687L.011

AN ACT

To repeal section 578.012, RSMo 2000, relating to animal abuse, and to enact in lieu thereof one new section relating to the same subject, with penalty provisions.

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

Section A. Section 578.012, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 578.012, to read as follows:

[578.012. 1. A person is guilty of animal abuse when a person:

- (1) Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of sections 578.005 to 578.023 and 273.030, RSMo;
- (2) Purposely or intentionally causes injury or suffering to an animal; or
- (3) Having ownership or custody of an animal knowingly fails to provide adequate care or adequate control.

2. Animal abuse is a class A misdemeanor, unless the defendant has previously plead guilty to or has been found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of this section is the result of torture or mutilation, or both, consciously inflicted while the animal was alive, in which case it is a class D felony.

3. For purposes of this section, "animal" shall be defined as a mammal.]

578.012. 1. Except as provided in subsection 3 of this section, every person who maliciously and intentionally maims, mutilates or tortures a living animal, or maliciously and intentionally kills an animal, except where allowed by law, is guilty of class D felony and may be fined not more than twenty thousand dollars.

2. Every person who maliciously and intentionally maims,

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

mutilates, or tortures any mammal, bird, reptile, amphibian, or fish as described in subsection 4 of this section, is guilty of a class D felony and may be fined not more than twenty thousand dollars.

3. Subsection 3 of this section applies to any mammal, bird, reptile, amphibian, or fish which is a creature described as follows:

- (1) Endangered species or threatened species;**
- (2) Fully protected birds;**
- (3) Fully protected mammals;**
- (4) Fully protected reptiles and amphibians;**
- (5) Fully protected fish.**

This subdivision does not supersede or affect any provisions of law relating to taking of the described species.

4. For the purposes of subsection 3 of this section, each act of malicious and intentional maiming, mutilating, or torturing a separate specimen of a creature described in subsection 4 of this section is a separate offense.

5. (1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

6. Notwithstanding any other provision of law, if a defendant is granted probation for a conviction pursuant to this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. The department of mental health shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care. The counseling specified in this subsection shall be in addition to any other terms and

conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an alternative in lieu of imprisonment in the state prison or county jail when such a sentence is otherwise appropriate. If the court does not order custody as a condition of probation for a conviction pursuant to this section, the court shall specify on the court record the reason or reasons for not ordering custody. This subsection shall not apply to cases involving police dogs or horses.

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