

HOUSE BILL NO. 323

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES CRAWFORD, Kerttula

Introduced: 5/15/03

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the care of and cruelty to animals, and to reports of suspected child**
2 **abuse or neglect by persons who have a duty to investigate animal cruelty, abuse, or**
3 **neglect."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 03.55 is amended by adding new sections to read:

6 **Article 1A. Care of Animals.**

7 **Sec. 03.55.100. Minimum standards of care for animals.** (a) The minimum
8 standards of care for animals include

9 (1) food and water sufficient to maintain each animal in good health; if
10 potable water is not provided to an animal at all times, it must be provided daily and in
11 sufficient quantity to maintain the good health of the animal;

12 (2) shelter provided an animal indoors that is maintained at a
13 temperature compatible with the good health of the animal; shelter provided an animal
14 outdoors must

1 (A) provide sufficient shade to protect the animal from sunlight
2 likely to cause heat exhaustion of the animal;

3 (B) protect the animal from inclement weather to an extent
4 sufficient to maintain the animal in good health; and

5 (C) be structurally sound and maintained in good repair to
6 protect the animal from injury and to contain the animal;

7 (3) space provided an animal indoors or outdoors that is sufficient to
8 allow the animal adequate freedom of movement so as to maintain the good health of
9 the animal;

10 (4) sanitation of indoor or outdoor enclosures or shelters that includes
11 periodic removal of animal waste material, dirt, and trash sufficient to maintain the
12 animal in good health;

13 (5) medical care must be provided an animal at times and to the extent
14 necessary to maintain the animal in good health;

15 (6) other standards as set by the department by regulation.

16 (b) Determinations as to the sufficiency of food, water, shelter, space,
17 sanitation, ventilation, rest, medical care, or good health; the extent of injury or
18 disease; and whether methods of destruction or euthanization are humane, as used in
19 this chapter and in AS 11.61.138 – 11.61.145, shall be based on the professional
20 opinion of a veterinarian licensed under AS 08.98.

21 **Sec. 03.55.110. Investigation of cruelty to animals complaints.** (a) A
22 person who believes that a violation of AS 11.61.138 - 11.61.145 has taken place or is
23 taking place may file a complaint with a public or private animal control agency,
24 humane animal treatment shelter or organization, the department, or with a peace
25 officer. An agency or organization that receives a complaint on which it wishes to
26 take action may refer the complaint to a peace officer.

27 (b) A peace officer who receives a complaint of animal cruelty may apply for
28 a search warrant under AS 12.35 to the judicial officer in the district in which the
29 alleged violation has taken place or is taking place. If the court finds that probable
30 cause exists, the court shall issue a search warrant directing a peace officer to proceed
31 immediately to the location of the alleged violation, to search the place designated in

1 the warrant, and to take into custody the property, including animals, specified in the
2 warrant.

3 (c) If the court determines that a veterinarian is necessary for the search, the
4 court may require that a veterinarian licensed under AS 08.98 accompany the peace
5 officer.

6 (d) The warrant shall be executed by the peace officer and returned to the
7 court.

8 **Sec. 03.55.120. Seizure of and lien on animals.** (a) A peace officer who
9 seizes and removes an animal described in a search warrant issued under
10 AS 03.55.110 may deliver the animal to a veterinarian licensed under AS 08.98 or to a
11 person, a public or private animal control agency, humane animal treatment shelter or
12 organization, or other custodial agency to be sheltered, cared for, and provided
13 medical attention.

14 (b) The peace officer shall immediately notify the animal's owner, by any
15 reasonable means, of the seizure and removal of the animal and under whose custody
16 the animal is to be sheltered and cared for.

17 (c) If the animal's owner is unknown and cannot be ascertained with
18 reasonable effort, the animal shall be considered a stray or abandoned.

19 (d) The state, a municipality, person, or other entity that supplies shelter, care,
20 veterinary attention or medical treatment for an animal seized under this section shall
21 have a lien on the animal for the costs of shelter, care, veterinary attention, or medical
22 treatment.

23 **Sec. 03.55.130. Destruction and adoption of animals.** (a) If a determination
24 is made by a veterinarian licensed under AS 08.98 or by a peace officer, alone or in
25 consultation with a veterinarian licensed under AS 08.98, that an animal seized under
26 AS 03.55.100 - 03.55.190 is injured or diseased to such an extent that, in the opinion
27 of the veterinarian or the peace officer, it is probable the animal cannot recover, the
28 veterinarian or the peace officer, alone or at the direction of the veterinarian, may
29 humanely destroy the animal or arrange for the animal's humane destruction.

30 (b) Upon diagnosis and recommendation of a veterinarian licensed under
31 AS 08.98, a public or private animal control agency, humane animal treatment shelter

1 or organization, or other custodial agency may euthanize a severely injured, diseased,
2 or suffering animal at any time.

3 (c) An owner of an animal destroyed under this section may not recover
4 damages for the destruction of the animal unless the owner shows that the destruction
5 was not warranted by the facts as known to the veterinarian or the peace officer.

6 (d) Except as provided in (a) or (b) of this section, the person or entity having
7 custody of an animal may not adopt, provide for the adoption of, or euthanize the
8 animal within 10 business days after the animal is taken into custody. An owner may
9 prevent the animal's adoption or destruction by

10 (1) petitioning the court of the judicial district in which the animal was
11 seized for the animal's immediate return, subject, if appropriate, to court-imposed
12 conditions; or

13 (2) posting with the court of the judicial district in which the animal
14 was seized a bond or security in an amount determined by the court to be sufficient to
15 provide for the animal's care for a minimum of 30 days from the date the animal was
16 seized.

17 (e) If the custodial agency still has custody of the animal when the bond or
18 security posted under (d)(2) of this section expires, the animal becomes the agency's
19 property unless the court orders an alternative disposition. If a court order prevents
20 the agency from assuming ownership and the agency continues to care for the animal,
21 the court shall require the owner of the animal to renew the bond or security for the
22 agency's continuing costs for the animal's care.

23 (f) The state may not be required to reimburse a person, a public or private
24 animal control agency, humane animal treatment shelter or organization, or other
25 custodial agency that voluntarily assists with a seizure or receives custody of an
26 animal seized under this section, for costs of shelter, care, veterinary assistance or
27 medical treatment rendered to the animal.

28 **Sec. 03.55.140. Peace officers to enforce provisions; certain department**
29 **employees as peace officers.** (a) Peace officers may enforce AS 03.55.100 -
30 03.55.190.

31 (b) The commissioner may designate employees to enforce AS 03.55.100 -

1 03.55.190 and AS 11.61.140 - 11.61.145. Employees of the department designated
2 under this section are peace officers when enforcing those laws.

3 **Sec. 03.55.190. Definition.** In AS 03.55.100 - 03.55.190, "animal" means a
4 vertebrate living creature not a human being, but does not include fish.

5 * **Sec. 2.** AS 11.61 is amended by adding a new section to read:

6 **Sec. 11.61.138. Cruelty to animals in the first degree.** (a) A person commits
7 cruelty to animals in the first degree if the person

8 (1) knowingly inflicts severe and prolonged physical pain or suffering
9 on an animal;

10 (2) kills or injures an animal by the use of a decompression chamber;

11 (3) kills a dog or cat for the purpose of preparing or serving the animal
12 for human consumption;

13 (4) kills or injures a domestic animal by the use of poison;

14 (5) owns or is responsible for the care of an animal and recklessly fails
15 to provide the minimum standards of care for the animal under AS 03.55.100;

16 (6) violates AS 11.61.140(a)(1), but the violation is committed against
17 a herd, collection, or kennel of 10 or more animals; or

18 (7) violates AS 11.61.140 and the person has been previously
19 convicted of a crime under this section, AS 11.61.140, or a law or ordinance of
20 another jurisdiction with elements similar to a crime under this section or
21 AS 11.61.140.

22 (b) In (a)(1) - (5) and (7) of this section, each animal that is subject to cruelty
23 to animals, constitutes a separate offense.

24 (c) It is a defense to a prosecution under this section that the conduct of the
25 defendant

26 (1) constituted the humane destruction of an animal for just cause;

27 (2) conformed to accepted veterinary or animal husbandry practices;

28 (3) was necessarily incidental to lawful fishing, hunting or trapping
29 activities;

30 (4) was part of lawful scientific or agricultural research or teaching
31 that involves the use of animals;

1 (5) conformed to accepted training or disciplinary methods;

2 (6) constituted the lawful control of rodents, predators, and other
3 lawful animal damage control activities.

4 (d) In this section, "animal" has the meaning given in AS 11.61.140.

5 (e) Cruelty to animals in the first degree is a class A misdemeanor. The court
6 may also

7 (1) require forfeiture of any animal affected to the state, or to a
8 municipality, person, or other entity that supplies shelter, care, or medical treatment
9 for the animal;

10 (2) require the defendant to reimburse the state, or a municipality,
11 person, or other entity for all reasonable costs incurred in providing necessary care,
12 shelter, veterinary attention or medical treatment for any animal affected;

13 (3) prohibit or limit the defendant's ownership, possession, or custody
14 of animals.

15 * **Sec. 3.** AS 11.61.140 is repealed and reenacted to read:

16 **Sec. 11.61.140. Cruelty to animals in the second degree.** (a) A person
17 commits the crime of cruelty to animals in the second degree if the person

18 (1) recklessly abandons a domestic animal on a highway, railroad, or
19 in another place where it may suffer injury, hunger, or exposure, or become a public
20 charge;

21 (2) while operating a propelled vehicle, knowingly strikes and injures
22 an animal and fails to

23 (A) stop as close as possible to the scene of the accident; and

24 (B) notify

25 (i) the owner of the animal if the owner of the animal
26 can be reasonably discovered; and

27 (ii) the appropriate law enforcement agency;

28 (3) sets a steel jaw, leg-hold, snare, spring, or similar trap that has the
29 capacity to injure or kill an animal.

30 (b) It is a defense to a prosecution under (a)(3) of this section that the conduct
31 of the defendant in setting the trap was

1 (1) for a commercially reasonable purpose; or

2 (2) necessarily incidental to lawful hunting or trapping activities.

3 (c) Proof that an animal has been left unattended or without food or water for
4 72 hours or more is prima facie evidence that the animal has been abandoned under
5 (a)(1) of this section.

6 (d) In this section, each animal that is subject to cruelty to animals, constitutes
7 a separate offense.

8 (e) In this section, "animal" means a vertebrate living creature not a human
9 being, but does not include fish.

10 (f) Cruelty to animals is a class B misdemeanor. The court may also

11 (1) require forfeiture of any animal affected to the state, or to a
12 municipality, person, or other entity that supplies shelter, care, or medical treatment
13 for the animal;

14 (2) require the defendant to reimburse the state, or a municipality,
15 person, or other entity for all reasonable costs incurred in providing necessary care,
16 shelter, veterinary attention or medical treatment for any animal affected;

17 (3) prohibit or limit the defendant's ownership, possession, or custody
18 of animals.

19 * **Sec. 4.** AS 47.17.020(a) is amended to read:

20 (a) The following persons who, in the performance of their occupational
21 duties, or with respect to (8) of this subsection, in the performance of their appointed
22 duties, have reasonable cause to suspect that a child has suffered harm as a result of
23 child abuse or neglect shall immediately report the harm to the nearest office of the
24 department:

25 (1) practitioners of the healing arts;

26 (2) school teachers and school administrative staff members of public
27 and private schools;

28 (3) peace officers and officers of the Department of Corrections;

29 (4) administrative officers of institutions;

30 (5) child care providers;

31 (6) paid employees of domestic violence and sexual assault programs,

1 and crisis intervention and prevention programs as defined in AS 18.66.990;

2 (7) paid employees of an organization that provides counseling or
3 treatment to individuals seeking to control their use of drugs or alcohol;

4 (8) members of a child fatality review team established under
5 AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created
6 under AS 47.14.300;

7 **(9) a person who has a duty under state law or municipal**
8 **ordinance to investigate animal cruelty, abuse, or neglect.**