

CHAPTER 69

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 24-1074

BY REPRESENTATIVE(S) Armagost and Duran, Bird, Boesenecker, Bradfield, Bradley, Clifford, Frizell, Froelich, Hartsook, Jodeh, Kipp, Lieder, Lindstedt, McCormick, Snyder, Soper, Story, Valdez, Wilson, Winter T., Young, McCluskie; also SENATOR(S) Ginal and Gardner, Baisley, Bridges, Buckner, Coleman, Cutter, Jaquez Lewis, Liston, Lundeen, Michaelson Jenet, Mullica, Pelton R., Priola, Rich, Roberts, Rodriguez, Smallwood, Van Winkle, Will, Winter F., Zenzinger, Fenberg.

AN ACT**CONCERNING SPECIFICATIONS FOR THE OFFENSE OF AGGRAVATED CRUELTY TO A LAW ENFORCEMENT ANIMAL.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 18-9-201, **add** (2.8) as follows:

18-9-201. Definitions. As used in this part 2, unless the context otherwise requires:

(2.8) "LAW ENFORCEMENT ANIMAL" MEANS A CERTIFIED WORKING DOG OR A POLICE WORKING HORSE.

SECTION 2. In Colorado Revised Statutes, 18-9-202, **amend** (1.5), (1.8), (2)(a), (2)(a.5)(V)(B), (2)(c), (2)(d)(II), and (2.5) as follows:

18-9-202. Cruelty and aggravated cruelty to animals, service animals, and law enforcement animals - penalties - short title - definition. (1.5) (a) A person commits cruelty to animals if ~~he or she~~ THE PERSON recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.

(b) A person commits aggravated cruelty to animals if ~~he or she~~ THE PERSON:

(I) Knowingly tortures, needlessly mutilates, or needlessly kills an animal; OR

(II) KNOWINGLY KILLS OR CAUSES SERIOUS BODILY INJURY THAT RESULTS IN THE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

DEATH OF A LAW ENFORCEMENT ANIMAL, WHETHER THE LAW ENFORCEMENT ANIMAL IS ON DUTY OR NOT ON DUTY. FOR THE PURPOSES OF THIS SUBSECTION (1.5)(b)(II), "SERIOUS BODILY INJURY" MEANS BODILY INJURY THAT INVOLVES A SUBSTANTIAL RISK OF DEATH; A SUBSTANTIAL RISK OF PERMANENT DISFIGUREMENT; A SUBSTANTIAL RISK OF PROTRACTED LOSS OR IMPAIRMENT OF THE FUNCTION OF ANY PART OR ORGAN OF THE BODY; BREAKS; FRACTURES; A PENETRATING WOUND FROM A KNIFE OR A PENETRATING GUNSHOT WOUND; OR BURNS OF THE SECOND OR THIRD DEGREE.

(c) A person commits cruelty to a service animal or a ~~certified police working dog or police working horse~~ if he or she ~~violates the provisions of subsection (1) of this section with respect to a service animal certified police working dog, or police working horse~~ OR A LAW ENFORCEMENT ANIMAL, as those terms are defined in section 18-9-201, ~~(2.3), (2.4), and (4.7)~~, whether the service animal ~~certified police working dog, or police working horse~~ OR LAW ENFORCEMENT ANIMAL is on duty or not on duty.

(1.8) (a) A peace officer having authority to act ~~under~~ PURSUANT TO this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (1) or (1.5) of this section or is a victim of a violation of section 18-9-204 and as a result of the violation is endangered if it remains with the owner or custodian. If, in the opinion of a licensed veterinarian, an animal impounded pursuant to this subsection (1.8) is experiencing extreme pain or suffering, or is severely injured past recovery, severely disabled past recovery, or severely diseased past recovery, the animal may be euthanized without a court order.

(b) (I) A LICENSED VETERINARIAN IS IMMUNE FROM CRIMINAL LIABILITY AND IS NOT IN VIOLATION OF THE PROVISIONS OF SECTION (1.5)(b)(II) OF THIS SECTION IF:

(A) THE LICENSED VETERINARIAN PROVIDES VETERINARY TREATMENT FOR AN INJURED LAW ENFORCEMENT ANIMAL; OR

(B) THE LICENSED VETERINARIAN EUTHANIZES THE LAW ENFORCEMENT ANIMAL AFTER DETERMINING THAT THE LAW ENFORCEMENT ANIMAL, DUE TO A CRITICAL INJURY, IS EXPERIENCING EXTREME PAIN OR SUFFERING, OR IS SEVERELY INJURED PAST RECOVERY, SEVERELY DISABLED PAST RECOVERY, OR SEVERELY DISEASED PAST RECOVERY.

(II) A PERSON WHO OWNS OR WHO IS CHARGED WITH THE CARE OF A LAW ENFORCEMENT ANIMAL IS IMMUNE FROM CRIMINAL LIABILITY AND IS NOT IN VIOLATION OF THE PROVISIONS OF SECTION (1.5)(b)(II) OF THIS SECTION IF SUCH PERSON IS ABLE TO REASONABLY DETERMINE THAT THE LAW ENFORCEMENT ANIMAL, DUE TO A CRITICAL INJURY, IS EXPERIENCING EXTREME PAIN OR SUFFERING, OR IS SEVERELY INJURED PAST RECOVERY.

(2) (a) Except as otherwise provided in subsection (2)(b) of this section, cruelty to animals, or cruelty to a service animal ~~or certified police working dog or police working horse~~ OR A LAW ENFORCEMENT ANIMAL pursuant to subsection (1.5)(c) of this section, is a class 1 misdemeanor.

(a.5) (V) (B) In addition to any other sentence imposed upon a person for a violation of any criminal law ~~under~~ PURSUANT TO this title 18, ~~any~~ a person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include cruelty to a service animal ~~certified police working dog, or police working horse~~ OR A LAW ENFORCEMENT ANIMAL pursuant to ~~subsection (1.5)(c)(I)~~ SUBSECTION (1.5)(c) of this section or aggravated cruelty to a service animal ~~certified police working dog, or police working horse~~ OR AGGRAVATED CRUELTY TO A LAW ENFORCEMENT ANIMAL pursuant to ~~subsection (1.5)(c)(II)~~ SUBSECTION (1.5)(b) of this section, is required to pay a mandatory minimum fine of two thousand dollars and is required to complete an anger management treatment program or any other appropriate treatment program.

(c) Aggravated cruelty to animals, AS DESCRIBED IN SUBSECTION (1.5)(b) OF THIS SECTION, is a class 4 felony.

(d) (II) If a person is convicted of cruelty or aggravated cruelty to a service animal ~~certified police working dog, or police working horse~~ OR A LAW ENFORCEMENT ANIMAL pursuant to ~~subsection (1.5)(c)~~ SUBSECTION (1.5)(b) OR (1.5)(c) of this section, the court shall order the person to make restitution to the agency or individual owning the service animal ~~certified police working dog, or police working horse~~ OR LAW ENFORCEMENT ANIMAL for all expenses, including any immediate and ongoing veterinary expenses related to the incident, and replacement costs for the service animal ~~certified police working dog, or police working horse~~ OR LAW ENFORCEMENT ANIMAL if it is permanently disabled or killed as a result of the cruelty or aggravated cruelty incident. If the court finds that the person who is convicted of cruelty or aggravated cruelty to a service animal ~~certified police working dog, or police working horse~~ OR LAW ENFORCEMENT ANIMAL pursuant to ~~subsection (1.5)(c)~~ SUBSECTION (1.5)(b) OR (1.5)(c) of this section did so with malicious intent, the person shall additionally make restitution to the agency or individual owning the service animal ~~certified police working dog, or police working horse~~ OR LAW ENFORCEMENT ANIMAL for all training and certification costs related to the service animal ~~certified police working dog, or police working horse~~ OR LAW ENFORCEMENT ANIMAL.

(2.5) (a) It ~~shall be~~ IS an affirmative defense to a charge brought ~~under~~ PURSUANT TO this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.

(b) A PERSON IS JUSTIFIED IN USING PHYSICAL FORCE UPON A LAW ENFORCEMENT ANIMAL TO DEFEND THEIR OWN PERSON OR A THIRD PERSON WHEN THE PERSON REASONABLY BELIEVES THAT A LAW ENFORCEMENT ANIMAL IS AN APPLICATION OF UNREASONABLE OR EXCESSIVE FORCE, IN VIOLATION OF SECTION 18-1-707. THIS IS AN AFFIRMATIVE DEFENSE TO A CHARGE BROUGHT PURSUANT TO THIS SECTION THAT INVOLVES INJURY OR DEATH TO A LAW ENFORCEMENT ANIMAL.

SECTION 3. In Colorado Revised Statutes, 18-8-802, **amend** (1)(a) and (1.5)(a) as follows:

18-8-802. Duty of a peace officer to report use of force by peace officers or law enforcement animals - duty to intervene. (1) (a) A peace officer who, in

pursuance of such officer's law enforcement duties, witnesses another peace officer, INCLUDING A PEACE OFFICER WHO IS THE HANDLER OF A LAW ENFORCEMENT ANIMAL, in pursuance of such other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd control or riot control, use physical force OR ALLOW THE PEACE OFFICER'S LAW ENFORCEMENT ANIMAL TO USE PHYSICAL FORCE which exceeds the degree of physical force permitted pursuant to section 18-1-707 must report such use of force to such officer's OR HANDLER'S immediate supervisor.

(1.5) (a) A peace officer, as defined in section 24-31-901 (3), who is on-duty shall intervene to prevent or stop another peace officer, INCLUDING A PEACE OFFICER WHO IS THE HANDLER OF A LAW ENFORCEMENT ANIMAL, from using physical force that exceeds the degree of force permitted, if any, by section 18-1-707 in pursuance of the other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd control or riot control, without regard for chain of command.

SECTION 4. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: April 17, 2024