

FEB 14 2002

JUDICIARY

HOUSE FILE 2347
BY WARNSTADT

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the offense of livestock torture, and
2 providing a penalty.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2347

1 Section 1. Section 232.8, subsection 1, paragraph c, Code
2 2001, is amended to read as follows:

3 c. Violations by a child, aged sixteen or older, which
4 subject the child to the provisions of section 124.401,
5 subsection 1, paragraph "e" or "f", or violations of section
6 723A.2 which involve a violation of chapter 724, or violation
7 of chapter 724 which constitutes a felony, or violations which
8 constitute a forcible felony are excluded from the
9 jurisdiction of the juvenile court and shall be prosecuted as
10 otherwise provided by law unless the court transfers
11 jurisdiction of the child to the juvenile court upon motion
12 and for good cause. A child over whom jurisdiction has not
13 been transferred to the juvenile court, and who is convicted
14 of a violation excluded from the jurisdiction of the juvenile
15 court under this paragraph, shall be sentenced pursuant to
16 section 124.401B, 902.9, or 903.1. Notwithstanding any other
17 provision of the Code to the contrary, the court may accept
18 from a child a plea of guilty, or may instruct the jury on a
19 lesser included offense to the offense excluded from the
20 jurisdiction of the juvenile court under this section, in the
21 same manner as regarding an adult. However, the juvenile
22 court shall have exclusive original jurisdiction in a
23 proceeding concerning an offense of livestock torture as
24 provided in section 717.3 or animal torture as provided in
25 section 717B.3A, if the offense is alleged to have been
26 committed by a child under the age of seventeen.

27 Sec. 2. Section 232.8, subsection 3, unnumbered paragraph
28 2, Code 2001, is amended to read as follows:

29 This subsection does not apply in a proceeding concerning
30 an offense of livestock torture as provided in section 717.3
31 or animal torture as provided in section 717B.3A, if the
32 offense is alleged to have been committed by a child under the
33 age of seventeen.

34 Sec. 3. NEW SECTION. 717.3 LIVESTOCK TORTURE.

35 1. A person is guilty of livestock torture, regardless of

1 whether the person is the owner of the livestock, if the
2 person inflicts upon the livestock severe physical pain with a
3 depraved or sadistic intent to cause prolonged suffering or
4 death.

5 2. This section shall not apply to any of the following:

6 a. A person acting to carry out an order issued by a
7 court.

8 b. A licensed veterinarian practicing veterinary medicine
9 as provided in chapter 169.

10 c. A person carrying out a practice that is consistent
11 with livestock husbandry practices.

12 d. A person acting in order to carry out another provision
13 of law which allows the conduct.

14 e. A person reasonably acting to protect the person's
15 property from damage caused by unconfined livestock.

16 f. A person reasonably acting to protect a person from
17 injury or death caused by unconfined livestock.

18 g. A local authority reasonably acting to destroy
19 livestock, if at the time of the destruction, the owner of the
20 livestock is absent or unable to care for the livestock, and
21 the livestock is permanently distressed by disease or injury
22 to a degree that would result in severe and prolonged
23 suffering.

24 h. An institution, as defined in section 145B.1, or a
25 research facility, as defined in section 162.2, provided that
26 the institution or research facility performs functions within
27 the scope of accepted practices and disciplines associated
28 with the institution or research facility.

29 3. a. The following shall apply to a person who commits
30 livestock torture:

31 (1) For the first conviction, the person is guilty of an
32 aggravated misdemeanor. The sentencing order shall provide
33 that the person submit to psychological evaluation and
34 treatment according to terms required by the court. The costs
35 of the evaluation and treatment shall be paid by the person.

1 In addition, the sentencing order shall provide that the
2 person complete a community work requirement, which may
3 include a work requirement performed at a facility used to
4 maintain livestock or an animal shelter or pound, as defined
5 in section 162.2, according to terms required by the court.

6 (2) For a second or subsequent conviction, the person is
7 guilty of a class "D" felony. The sentencing order shall
8 provide that the person submit to psychological evaluation and
9 treatment according to terms required by the court. The costs
10 of the psychological evaluation and treatment shall be paid by
11 the person.

12 b. The juvenile court shall have exclusive original
13 jurisdiction in a proceeding concerning a child who is alleged
14 to have committed livestock torture, in the manner provided in
15 section 232.8. The juvenile court shall not waive
16 jurisdiction in a proceeding concerning an offense alleged to
17 have been committed by a child under the age of seventeen.

18 EXPLANATION

19 In 1994, the general assembly enacted House File 637 (1994
20 Iowa Acts, ch. 1103) which created two Code chapters
21 prohibiting animal abuse and neglect: Code chapter 717 which
22 governs the abuse and neglect of livestock and Code chapter
23 717B which governs the abuse and neglect of other animals. In
24 2000, the general assembly enacted House File 723 (2000 Iowa
25 Acts, ch. 1152), creating a new offense referred to as "animal
26 torture" in Code section 717B.3A. This bill provides for a
27 new criminal offense of "livestock torture" in new Code
28 section 717.3. It is generally consistent with the provisions
29 passed by the general assembly in House File 723.

30 Specifically, the bill provides that a person is guilty of
31 livestock torture if the person inflicts upon livestock severe
32 physical pain with a depraved or sadistic intent to cause
33 prolonged suffering or death. The bill provides a number of
34 exceptions, including exceptions based on actions consistent
35 with livestock husbandry practices, veterinary practices,

1 self-defense or protection of property, and research.

2 The bill provides that a person convicted of livestock
3 torture is guilty of an aggravated misdemeanor for the first
4 offense and a class "D" felony for a subsequent offense. An
5 aggravated misdemeanor is punishable by confinement for no
6 more than two years and a fine of at least \$500 but not more
7 than \$5,000. A class "D" felony is punishable by confinement
8 for no more than five years and a fine of at least \$750 but
9 not more than \$7,500.

10 The bill provides that the sentencing order must provide
11 that the offender submit to psychological evaluation and
12 treatment. The offender must pay the costs of the evaluation
13 and treatment. In addition, the sentencing order for the
14 first offense must provide a community work requirement, which
15 may include work performed at a facility used to maintain
16 livestock or an animal shelter or pound.

17 The bill provides that the juvenile court has exclusive
18 original jurisdiction in a proceeding concerning a child who
19 is alleged to have committed livestock torture. The juvenile
20 court cannot waive jurisdiction in a proceeding concerning the
21 offense alleged to have been committed by a child under the
22 age of 17.

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