

FILED FEB 01 2006

JUDICIARY

SENATE FILE 2138  
BY McCOY

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act providing for the mistreatment of animals, and providing  
2 penalties.

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

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

JUDICIARY  
SF 2138

1 Section 1. Section 717B.1, Code 2005, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 10. "Wild animal" means the same as  
4 defined in section 481A.1.

5 Sec. 2. Section 717B.2, Code 2005, is amended to read as  
6 follows:

7 717B.2 ANIMAL ABUSE.

8 1. A person is guilty of animal abuse if the person  
9 intentionally injures, maims, disfigures, or destroys an  
10 animal owned by another person, in any manner, including  
11 intentionally poisoning the animal. ~~A person guilty of animal~~  
12 ~~abuse is guilty of an aggravated misdemeanor.~~

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

14 ~~1-~~ a. A person acting with the consent of the person  
15 owning the animal, unless the action constitutes animal  
16 neglect as provided in section 717B.3.

17 ~~2-~~ b. A person acting to carry out an order issued by a  
18 court.

19 ~~3-~~ c. A licensed veterinarian practicing veterinary  
20 medicine as provided in chapter 169.

21 ~~4-~~ d. A person acting in order to carry out another  
22 provision of law which allows the conduct.

23 ~~5-~~ e. A person taking, hunting, trapping, or fishing for  
24 a wild animal as provided in chapter 481A.

25 ~~6-~~ f. A person acting to protect the person's property  
26 from a wild animal ~~as defined in section 481A.1.~~

27 ~~7-~~ g. A person acting to protect a person from injury or  
28 death caused by a wild animal ~~as defined in section 481A.1.~~

29 ~~8-~~ h. A person reasonably acting to protect the person's  
30 property from damage caused by an unconfined animal.

31 ~~9-~~ i. A person reasonably acting to protect a person from  
32 injury or death caused by an unconfined animal.

33 ~~10-~~ j. A local authority reasonably acting to destroy an  
34 animal, if at the time of the destruction, the owner of the  
35 animal is absent or unable to care for the animal, and the

1 animal is permanently distressed by disease or injury to a  
2 degree that would result in severe and prolonged suffering.

3 ~~11-~~ k. An institution, as defined in section 145B.1, or a  
4 research facility, as defined in section 162.2, provided that  
5 the institution or research facility performs functions within  
6 the scope of accepted practices and disciplines associated  
7 with the institution or research facility.

8 3. a. The following shall apply to a person who commits  
9 animal abuse:

10 (1) For the first conviction, the person is guilty of an  
11 aggravated misdemeanor. The sentencing order shall provide  
12 that the person complete a community work requirement, which  
13 may include a work requirement performed at an animal shelter  
14 or pound, as defined in section 162.2, according to terms  
15 required by the court.

16 (2) For a second or subsequent conviction, the person is  
17 guilty of a class "D" felony. The sentencing order shall  
18 provide that the person submit to psychological evaluation and  
19 treatment according to terms required by the court. The costs  
20 of the psychological evaluation and treatment shall be paid by  
21 the person.

22 b. The juvenile court shall have exclusive original  
23 jurisdiction in a proceeding concerning a child who is alleged  
24 to have committed animal abuse, in the manner provided in  
25 section 232.8. The juvenile court shall not waive  
26 jurisdiction in a proceeding concerning a violation of this  
27 section alleged to have been committed by a child under the  
28 age of seventeen.

29 Sec. 3. Section 717B.3A, subsection 2, paragraphs f and g,  
30 Code 2005, are amended to read as follows:

31 f. A person acting to protect the person's property from a  
32 wild animal ~~as defined in section 481A.1.~~

33 g. A person acting to protect a person from injury or  
34 death caused by a wild animal ~~as defined in section 481A.1.~~

35 Sec. 4. Section 717B.3A, subsection 3, paragraph a,

1 subparagraphs (1) and (2), Code 2005, are amended to read as  
2 follows:

3 (1) For the first conviction, the person is guilty of an  
4 ~~aggravated-misdemeanor~~ a class "D" felony. The sentencing  
5 order shall provide that the person submit to psychological  
6 evaluation and treatment according to terms required by the  
7 court. The costs of the evaluation and treatment shall be  
8 paid by the person. In addition, the sentencing order shall  
9 provide that the person complete a community work requirement,  
10 which may include a work requirement performed at an animal  
11 shelter or pound, as defined in section 162.2, according to  
12 terms required by the court.

13 (2) For a second or subsequent conviction, the person is  
14 guilty of a class ~~"D"~~ "C" felony. The sentencing order shall  
15 provide that the person submit to psychological evaluation and  
16 treatment according to terms required by the court. The costs  
17 of the psychological evaluation and treatment shall be paid by  
18 the person.

19 EXPLANATION

20 This bill amends Code chapter 717B, which provides for  
21 offenses relating to the mistreatment of animals.

22 DEFINITIONS. Code section 717B.1 defines the term "animal"  
23 to exclude certain animals from the chapter's application,  
24 including livestock and wild animals (game and nongame  
25 species). Code chapter 717 provides for offenses relating to  
26 the mistreatment of livestock. There is no comparable  
27 provision which prohibits the mistreatment of wildlife.

28 ANIMAL ABUSE. The bill amends Code section 717B.2, which  
29 provides for an offense referred to as "animal abuse".  
30 Current law provides that a person is guilty of animal abuse  
31 if the person intentionally injures, maims, disfigures, or  
32 destroys an animal owned by another person. A person  
33 convicted of animal abuse is guilty of an aggravated  
34 misdemeanor for the first offense and any subsequent offense.  
35 The bill provides that for a first conviction, the sentencing

1 order must provide that the person complete a community work  
2 requirement, which may include a work requirement performed at  
3 an animal shelter or pound. The bill provides that for a  
4 second or subsequent conviction, the person is guilty of a  
5 class "D" felony. In addition, the bill provides that upon a  
6 second or subsequent conviction the sentencing order must  
7 provide that the person submit to psychological evaluation and  
8 treatment according to terms required by the court. The bill  
9 provides that a juvenile court shall have exclusive original  
10 jurisdiction in a proceeding concerning a child who is alleged  
11 to have committed animal abuse. These new provisions are  
12 substantially similar to those currently provided for animal  
13 torture pursuant to Code section 717B.3A.

14 ANIMAL TORTURE. The bill amends Code section 717B.3A,  
15 which provides for an offense referred to as "animal torture".  
16 Current law provides that a person is guilty of animal torture  
17 if the person inflicts upon an animal severe physical pain  
18 with a depraved or sadistic intent to cause prolonged  
19 suffering or death. A person convicted of animal torture is  
20 guilty of an aggravated misdemeanor for the first offense and  
21 a class "D" felony for a subsequent offense. The bill  
22 increases the penalty for animal torture to a class "D" felony  
23 for a first offense and to a class "C" felony for a second or  
24 subsequent offense.

25 PENALTIES. An aggravated misdemeanor is punishable by  
26 confinement for no more than two years and a fine of at least  
27 \$500 but not more than \$5,000. A class "D" felony is  
28 punishable by confinement for no more than five years and a  
29 fine of at least \$750 but not more than \$7,500. A class "C"  
30 felony is punishable by confinement for no more than 10 years  
31 and a fine of at least \$1,000 but not more than \$10,000.

32  
33  
34  
35