

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 851

Introduced by Wishart, 27; DeBoer, 10; Morfeld, 46.

Read first time January 06, 2022

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
- 2 28-1008 and 28-1012, Reissue Revised Statutes of Nebraska; to
- 3 redefine a term; to change enforcement procedures related to certain
- 4 crimes involving animals; to harmonize provisions; and to repeal the
- 5 original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1008, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-1008 For purposes of sections 28-1008 to 28-1017, 28-1019, and
4 28-1020:

5 (1) Abandon means to leave any animal in one's care, whether as
6 owner or custodian, for any length of time without making effective
7 provision for its food, water, or other care as is reasonably necessary
8 for the animal's health;

9 (2) Animal means any vertebrate member of the animal kingdom. Animal
10 does not include an uncaptured wild creature or a livestock animal as
11 defined in section 54-902;

12 (3) Cruelly mistreat means, with no justifiable purpose, to
13 knowingly and intentionally kill, maim, disfigure, torture, beat, kick,
14 hit, strike in any manner, mutilate, burn, scald, or otherwise inflict
15 harm upon any animal;

16 (4) Cruelly neglect means to fail to provide any animal in one's
17 care, whether as owner or custodian, with food, water, or other care as
18 is reasonably necessary for the animal's health;

19 (5) Humane killing means the destruction of an animal by a method
20 which causes the animal a minimum of pain and suffering;

21 (6) Law enforcement officer means any member of the Nebraska State
22 Patrol, any county or deputy sheriff, any member of the police force of
23 any city or village, or any other public official authorized by a city or
24 village to enforce state or local animal control laws, rules,
25 regulations, or ordinances. Law enforcement officer also includes a
26 special investigator appointed as a deputy state sheriff as authorized
27 pursuant to section 81-201 while acting within the authority of the
28 Director of Agriculture under the Commercial Dog and Cat Operator
29 Inspection Act;

30 (7) Mutilation means intentionally causing permanent injury,
31 disfigurement, degradation of function, incapacitation, or imperfection

1 to an animal. Mutilation does not include conduct performed by a
2 veterinarian licensed to practice veterinary medicine and surgery in this
3 state or conduct that conforms to accepted veterinary practices;

4 (8) Owner or custodian means any person owning, keeping, possessing,
5 harboring, or knowingly permitting an animal to remain on or about any
6 premises owned or occupied by such person;

7 (9) Police animal means a horse or dog owned or controlled by the
8 State of Nebraska or any county, city, or village for the purpose of
9 assisting a law enforcement officer in the performance of his or her
10 official enforcement duties;

11 (10) Repeated beating means intentional successive strikes to an
12 animal by a person resulting in serious ~~bodily~~ injury or illness or death
13 to the animal;

14 (11) Serious injury or illness includes any injury or illness to any
15 animal which creates a substantial risk of death or which causes broken
16 bones, prolonged impairment of health, or prolonged loss or impairment of
17 the function of any bodily organ; and

18 (12) Torture means intentionally subjecting an animal to extreme
19 pain, suffering, or agony. Torture does not include conduct performed by
20 a veterinarian licensed to practice veterinary medicine and surgery in
21 this state or conduct that conforms to accepted veterinary practices.

22 Sec. 2. Section 28-1012, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 28-1012 (1) A law enforcement officer who has reason to believe that
25 an animal has been abandoned or is being cruelly neglected or cruelly
26 mistreated may seek a warrant authorizing entry upon private property to
27 inspect, care for, or impound the animal.

28 (2) It shall be the duty of a A law enforcement officer who has
29 reason to believe that an animal has been abandoned or is being cruelly
30 neglected or cruelly mistreated to make prompt investigation of such
31 violation. A law enforcement officer may, in lieu of making an arrest,

1 issue a citation to the owner or custodian as prescribed in sections
2 29-422 to 29-429.

3 (3) Any equipment, device, or other property or things involved in a
4 violation of section 28-1009 or 28-1010 shall be subject to seizure, and
5 distribution or disposition may be made in such manner as the court may
6 direct. Any animal involved in a violation of section 28-1009 or 28-1010
7 shall be subject to seizure. Distribution or disposition shall be made
8 under section 28-1012.01 as the court may direct.

9 (4) Any law enforcement officer acting under this section shall not
10 be liable for damage to property if such damage is not the result of the
11 officer's negligence.

12 Sec. 3. Original sections 28-1008 and 28-1012, Reissue Revised
13 Statutes of Nebraska, are repealed.