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HOUSE BILL 210

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Daymon Ely

AN ACT

RELATING TO CRIMINAL LAW; CLARIFYING THE CRIMES OF CRUELTY TO ANIMALS AND EXTREME CRUELTY TO ANIMALS; PROVIDING DEFINITIONS; CLARIFYING THE APPLICATION OF THE PRACTICE OF VETERINARY MEDICINE; PROVIDING FOR PSYCHOLOGICAL COUNSELING; INCREASING THE PENALTY WHEN CRUELTY CAUSES DEATH OR GREAT BODILY HARM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-18-1 NMSA 1978 (being Laws 1999, Chapter 107, Section 1, as amended) is amended to read:

"30-18-1. CRUELTY TO ANIMALS--EXTREME CRUELTY TO ANIMALS--PENALTIES--EXCEPTIONS--DEFINITIONS.--

~~[A. As used in this section, "animal" does not include insects or reptiles.~~

~~B.]~~ A. Cruelty to animals consists of a person:

(1) ~~[negligently]~~ recklessly mistreating,

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1 injuring [~~kill~~ing without lawful justification] or tormenting  
2 an animal; [~~or~~]

3 (2) recklessly or intentionally abandoning an  
4 animal under that person's custody or control; or

5 (3) recklessly or intentionally failing to  
6 provide necessary sustenance to an animal [~~under~~] that has been  
7 willingly accepted into that person's custody or control.

8 [~~G. As used in Subsection B of this section,~~  
9 "~~lawful justification~~" means:

10 (1) ~~humanely destroying a sick or injured~~  
11 ~~animal; or~~

12 (2) ~~protecting a person or animal from death~~  
13 ~~or injury due to an attack by another animal.~~

14 ~~D.]~~ B. Whoever commits cruelty to animals is guilty  
15 of a misdemeanor and shall be sentenced pursuant to the  
16 provisions of Section 31-19-1 NMSA 1978. Upon a fourth or  
17 subsequent conviction for committing cruelty to animals, the  
18 offender is guilty of a fourth degree felony and shall be  
19 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
20 1978.

21 C. Whoever commits cruelty to animals that causes  
22 death or great bodily harm to the animal is guilty of a fourth  
23 degree felony and shall be sentenced pursuant to the provisions  
24 of Section 31-18-15 NMSA 1978.

25 [~~E.]~~ D. Extreme cruelty to animals consists of a

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1 person:

2 (1) intentionally or maliciously [~~torturing,~~  
3 ~~mutilating, injuring or poisoning~~] mistreating an animal; or

4 (2) intentionally or maliciously killing an  
5 animal without lawful justification.

6 [~~F.~~] E. Whoever commits extreme cruelty to animals  
7 is guilty of a fourth degree felony and shall be sentenced  
8 pursuant to the provisions of Section 31-18-15 NMSA 1978.

9 [~~G.~~] F. The court may order a person convicted for  
10 committing cruelty to animals to participate in an animal  
11 cruelty prevention program or an animal cruelty education  
12 program. The court may also order a person convicted for  
13 committing cruelty to animals [~~or extreme cruelty to animals~~]  
14 to obtain psychological counseling for treatment of a mental  
15 health disorder if, in the court's judgment, the mental health  
16 disorder contributed to the commission of the criminal offense.  
17 The court shall order a person convicted of extreme cruelty to  
18 animals to obtain psychological counseling. The offender shall  
19 bear the expense of participating in an animal cruelty  
20 prevention program, animal cruelty education program or  
21 psychological counseling ordered by the court.

22 [~~H.~~] G. If a child is adjudicated of cruelty to  
23 animals, the court shall order an assessment and any necessary  
24 psychological counseling or treatment of the child.

25 [~~I.~~] H. The provisions of this section do not apply

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1 to:

2 (1) fishing, hunting, falconry, taking and  
3 trapping, as provided in Chapter 17 NMSA 1978;

4 (2) the practice of veterinary medicine, as  
5 provided in [~~Chapter 61, Article 14 NMSA 1978~~] the Veterinary  
6 Practice Act, when the practice is in accordance with commonly  
7 accepted veterinary practices;

8 (3) rodent or pest control, as provided in  
9 Chapter 77, Article 15 NMSA 1978;

10 (4) the treatment of livestock and other  
11 animals used on farms, [~~and~~] ranches and dairies for the  
12 production of food, fiber or other agricultural products, when  
13 the treatment is in accordance with commonly accepted  
14 agricultural animal husbandry practices;

15 (5) the use of commonly accepted Mexican and  
16 American rodeo practices, unless otherwise prohibited by law;

17 (6) research facilities [~~licensed~~] registered  
18 pursuant to [~~the provisions of~~] 7 U.S.C. Section 2136, except  
19 when knowingly operating outside provisions governing the  
20 treatment of animals of a research or maintenance protocol  
21 approved by the institutional animal care and use committee of  
22 the facility; or

23 (7) other [~~similar~~] activities not otherwise  
24 prohibited by law.

25 I. If there is a dispute as to what constitutes

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1 commonly accepted veterinary practices, the board of veterinary  
2 medicine shall hold a hearing to determine if the practice in  
3 question is a commonly accepted veterinary practice.

4 J. If there is a dispute as to what constitutes  
5 commonly accepted agricultural animal husbandry practices or  
6 commonly accepted rodeo practices, the New Mexico livestock  
7 board shall hold a hearing to determine if the practice in  
8 question is a commonly accepted agricultural animal husbandry  
9 practice or commonly accepted rodeo practice.

10 K. As used in this section:

11 (1) "abandoning" means leaving or casting out  
12 an animal and failing to provide or ensure necessary  
13 sustenance;

14 (2) "animal" means all vertebrates except for  
15 humans and noncaptive snakes;

16 (3) "great bodily harm" means an injury that  
17 creates a high probability of death, that causes serious  
18 disfigurement or that results in permanent or protracted loss  
19 or impairment of the function of any member or organ of the  
20 body;

21 (4) "lawful justification" means:

22 (a) humanely destroying a sick or  
23 injured animal; or

24 (b) protecting a person or animal from  
25 death or injury due to an attack by another animal;

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1                   (5) "mistreating" means torturing, mutilating  
2 or poisoning;

3                   (6) "recklessly" means acting with willful  
4 disregard of the welfare or safety of an animal and in a manner  
5 that endangers an animal;

6                   (7) "sustenance" means food, water or shelter;  
7 provided that shelter with regard to livestock shall be in  
8 keeping with commonly accepted agricultural animal husbandry  
9 practices; and

10                   (8) "tormenting" means causing great distress  
11 or agitation or inflicting physical pain."

12                   SECTION 2. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2017.