

# Enrolled House Bill 4043

Sponsored by Representative CONRAD; Representatives BOWMAN, DEXTER, GAMBA, GOMBERG, GRAYBER, HELFRICH, HUDSON, LEVY B, LEVY E, MANNIX, MCINTIRE, NERON, OSBORNE, RESCHKE, WRIGHT, YUNKER, Senators ANDERSON, SOLLMAN (Presession filed.)

CHAPTER .....

AN ACT

Relating to animal cruelty; creating new provisions; amending ORS 105.597, 167.320, 167.322, 167.330, 167.332, 167.350 and 686.040; and prescribing an effective date.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Section 2 of this 2024 Act is added to and made a part of ORS 167.310 to 167.351.

**SECTION 2.** (1) A person commits the crime of interfering with an investigation into an offense against an animal if the person intentionally or knowingly conceals an animal, transports an animal or takes other action to prevent a peace officer, as defined in ORS 161.015, or a licensed veterinarian from examining an animal suspected of being the subject of a violation under ORS 167.310 to 167.390.

(2) Interfering with an investigation into an offense against an animal is a Class A misdemeanor.

**SECTION 3.** ORS 167.320 is amended to read:

167.320. (1) A person commits the crime of animal abuse in the first degree if, except as otherwise authorized by law, the person [*intentionally, knowingly or*] recklessly[:]

[*(a)*] causes serious physical injury **or death** to an animal[: *or*]

[*(b)*] Cruelly causes the death of an animal].

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the first degree is a Class A misdemeanor.

(4) Notwithstanding subsection (3) of this section, animal abuse in the first degree is a Class C felony if:

(a) The person committing the animal abuse has previously been convicted of one or more of the following offenses:

(A) Any offense under ORS 163.160, 163.165, 163.175, 163.185 or 163.187 or the equivalent laws of another jurisdiction, if the offense involved domestic violence as defined in ORS 135.230 or the offense was committed against a minor child; or

(B) Any offense under this section or ORS 167.322, or the equivalent laws of another jurisdiction; or

(b) The person knowingly commits the animal abuse in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal abuse if the abuse is seen or directly perceived in any other manner by the minor child.

(5) When animal abuse in the first degree is a felony, the Oregon Criminal Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid.

**(6) Notwithstanding subsection (5) of this section, when animal abuse in the first degree is a felony because of circumstances described in subsection (4)(b) of this section, the Oregon Criminal Justice Commission shall classify the offense as crime category 7 of the sentencing guidelines grid.**

**SECTION 4.** ORS 167.322 is amended to read:

167.322. (1) A person commits the crime of aggravated animal abuse in the first degree if, **except as otherwise authorized by law, the person intentionally or knowingly:**

*[(a) Maliciously kills an animal; or]*

*[(b) Intentionally or knowingly tortures an animal.]*

**(a) Tortures an animal; or**

**(b) Causes serious physical injury or death to an animal.**

**(2) Any practice of good animal husbandry is not a violation of this section.**

*[(2)]* **(3)** Aggravated animal abuse in the first degree is a Class C felony and the Oregon Criminal Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid.

**(4) Notwithstanding subsection (3) of this section, the Oregon Criminal Justice Commission shall classify the offense of aggravated animal abuse in the first degree as crime category 7 of the sentencing guidelines grid if:**

**(a) The person committing the animal abuse has previously been convicted of one or more of the following offenses:**

**(A) Any offense under ORS 163.160, 163.165, 163.175, 163.185 or 163.187 or the equivalent laws of another jurisdiction, if the offense involved domestic violence as defined in ORS 135.230 or the offense was committed against a minor child; or**

**(B) Any offense under this section or ORS 167.320, or the equivalent laws of another jurisdiction; or**

**(b) The person knowingly commits the animal abuse in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal abuse if the abuse is seen or directly perceived in any other manner by the minor child.**

*[(3)]* **(5)** As used in this section[:]

*[(a) “Maliciously” means intentionally acting with a depravity of mind and reckless and wanton disregard of life.]*

*[(b)], “torture” means an action taken for the primary purpose of inflicting pain.*

**SECTION 5. The amendments to ORS 167.322 by section 4 of this 2024 Act do not affect the application of the exceptions in ORS 167.335.**

**SECTION 6.** ORS 167.330 is amended to read:

167.330. (1) A person commits the crime of animal neglect in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence:

(a) Fails to provide minimum care for an animal in the person’s custody or control and the failure to provide care results in serious physical injury or death to the animal; or

(b) Tethers a domestic animal in the person’s custody or control and the tethering results in serious physical injury or death to the domestic animal.

(2) Animal neglect in the first degree is a Class A misdemeanor.

(3) Notwithstanding subsection (2) of this section, animal neglect in the first degree is a Class C felony if:

(a) The person committing the offense has previously been convicted of one or more offenses under this section, ORS 167.325 or the equivalent laws of another jurisdiction;

(b) The offense was part of a criminal episode involving 10 or more animals; *[or]*

**(c) The person committing the offense acts intentionally, knowingly or recklessly as to the serious physical injury or death of the animal; or**

[(c)] (d) The person knowingly commits the offense in the immediate presence of a minor child. For purposes of this paragraph, a minor child is in the immediate presence of animal neglect if the neglect is seen or directly perceived in any other manner by the minor child.

(4) The Oregon Criminal Justice Commission shall classify animal neglect in the first degree under subsection (3) of this section:

(a) As crime category 6 if 10 to 40 animals were the subject of the neglect.

(b) As crime category 7 if more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in subsection (3)(a) or [(c)] (d) of this section.

**SECTION 7.** ORS 167.332 is amended to read:

167.332. (1) Except as provided in subsections (3) and (4) of this section:

(a) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315, 167.340 or 167.355 or of a misdemeanor under ORS 167.320, 167.325 or 167.330 **or this section** may not possess **or reside with** any animal of the same genus against which the crime was committed or any domestic animal for a period of five years following entry of the conviction.

(b) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322, 167.333, 167.365 or 167.428 or of a felony under ORS 167.320, 167.325 or 167.330 may not possess **or reside with** any animal of the same genus against which the crime was committed or any domestic animal for a period of 15 years following entry of the conviction. *[However, the sentencing court may reduce the prohibition period if the person successfully completes mental health treatment approved by the court.]*

(2) **Except as provided in subsection (5)(d) of this section**, a person who possesses **or resides with** an animal in violation of this section commits a Class [C] **B** misdemeanor. When a person is convicted of possessing **or residing with** an animal in violation of this section, as part of the sentence the court may order the removal of that animal from the person's **possession or** residence and as a condition of the person's probation may prohibit the person from possessing **or residing with** any animal of the same genus that the person unlawfully possessed **or resided with** under this section or against which the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 **or this section** was committed.

(3) The *[animal possession]* prohibition described in subsection (1) of this section does not apply to a person's first conviction if the person is the owner of a commercial livestock operation and the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355, 167.365 or 167.428 was committed against livestock.

(4)(a) A person subject to *[an animal possession]* a prohibition described in subsection (1) of this section may file a motion with the sentencing court requesting a waiver of the prohibition. The person must file a sworn affidavit in support of the motion stating that:

(A) The person's conviction leading to the *[possession]* prohibition involved only livestock;

(B) During the two years before the conviction triggering the prohibition, the person was the owner of a commercial livestock operation;

(C) The person has not been convicted, in the previous five years, of a crime involving animals or domestic violence or a crime where the victim was under 18 years of age; and

(D) The person's conviction was the result of:

(i) Criminal liability for the conduct of another person under ORS 161.155 (2)(c);

(ii) Criminal liability of a corporation as described in ORS 161.170, and the person is a corporation; or

(iii) Animal neglect as described in ORS 167.325 or 167.330 and the person's criminal conduct was not knowing or intentional.

(b) When a person files a motion and affidavit described in paragraph (a) of this subsection, the sentencing court shall hold a hearing. At the hearing, the sentencing court shall grant the motion if the person proves by clear and convincing evidence that:

(A) Continued enforcement of the prohibition against possessing **or residing with** livestock would result in substantial economic hardship that cannot otherwise be mitigated;

(B) The person no longer poses any risk to animals; and

(C) The person is capable of providing and willing to provide necessary, adequate and appropriate levels of care for all livestock that would come within the person's custody or control if the petition is granted.

(c) When deciding a motion filed under this subsection, the sentencing court may consider the person's financial circumstances and mental health in determining whether the person is capable of adequately caring for livestock.

(d) If the sentencing court grants the motion described in this subsection, the waiver of the prohibition against possessing **or residing with** animals shall apply only to livestock. The sentencing court shall further order that for five years the person must consent to reasonable inspections by law enforcement and the United States Department of Agriculture to ensure the welfare of the livestock under the person's custody or control. A refusal to consent to a reasonable inspection described in this paragraph is contempt of court and, if the person is found in contempt, shall result in the sentencing court revoking the waiver of the [*possession*] prohibition.

(e) As used in this subsection, "commercial livestock operation" means a **licensed** business engaged in the raising, breeding or selling of livestock for profit.

**(5)(a) A person subject to a prohibition described in subsection (1) of this section may file a motion with the sentencing court requesting a termination of the prohibition, a reduction in the length of the prohibition or an amendment of the prohibition to exclude certain categories of animals or certain specific animals, unless the underlying conviction was for intentional or knowing conduct. The person must:**

**(A) File a sworn affidavit in support of the motion stating that, apart from the underlying offense, the person has not been previously convicted of a violation of ORS 167.315, 167.333, 167.340, 167.355, 167.365 or 167.428, of a misdemeanor or a felony under ORS 167.320, 167.325 or 167.330, or of a violation of the equivalent laws of another jurisdiction.**

**(B) Serve a copy of the motion upon the office of the prosecuting attorney who prosecuted the offense.**

**(b) When a person files a motion described in paragraph (a) of this subsection, the sentencing court shall hold a hearing. At the hearing, the sentencing court shall consider:**

**(A) The nature of the underlying offense;**

**(B) The number of animals involved in the underlying offense;**

**(C) The degree of violence and criminal intent involved in the underlying offense;**

**(D) Other criminal and relevant noncriminal behavior of the person both before and after the underlying conviction;**

**(E) The period of time during which the person has not reoffended;**

**(F) Whether the person has successfully completed a court-approved treatment program related to animal care and welfare; and**

**(G) Any other relevant factors.**

**(c) If, after a hearing described in paragraph (b) of this subsection, the sentencing court is satisfied by clear and convincing evidence that the person no longer poses any risk to animals under the person's custody or control, the sentencing court shall:**

**(A) Enter an order terminating the prohibition, reducing the length of the prohibition, amending the prohibition to exclude certain categories of animals or amending the prohibition to exclude certain specific animals.**

**(B) Order that, for five years, the person must consent to reasonable inspections by law enforcement and the United States Department of Agriculture to ensure the welfare of any animals under the person's custody or control. A refusal to consent to a reasonable inspection described in this subparagraph constitutes contempt of court and, if the person is found in contempt, shall result in the sentencing court revoking the order described in subparagraph (A) of this paragraph.**

**(d) A person whose motion under this subsection has been granted and who possesses or resides with an animal in violation of an order described in paragraph (c)(A) of this subsection commits a Class A misdemeanor. If a person is convicted of a violation described in**

**this paragraph, as part of the sentence the sentencing court may order the removal of the animal from the person's possession or residence.**

**SECTION 8.** ORS 167.350 is amended to read:

167.350. (1)(a) In addition to and not in lieu of any other sentence it may impose, a court [may] **shall** require a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to forfeit any rights of the defendant in the animal subjected to the violation, and to repay the reasonable costs incurred by a government agency, a humane investigation agency or its agent or a person prior to judgment in caring for each animal associated with the criminal proceeding.

(b) If a government agency or a humane investigation agency or its agent provides care and treatment for impounded or seized animals, a court that orders a defendant to repay reasonable costs of care under paragraph (a) of this subsection may not reduce the incurred cost amount based on the agency having received donations or other funding for the care.

(2)(a) When the court orders the defendant's rights in the animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the county or an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. The court may not transfer the defendant's rights in the animal to any person who resides with the defendant.

(b) This subsection does not limit the right of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership. The court shall require a person to whom rights are granted to execute an agreement to provide minimum care to the animal. The agreement must indicate that allowing the defendant to possess **or reside with** the animal constitutes a crime.

(3) In addition to and not in lieu of any other sentence it may impose, a court may order the owner or person having custody of an animal to repay any reasonable costs incurred by a government agency, a humane investigation agency or its agent or a person in providing minimum care to the animal that are not included in a repayment order under subsection (1) of this section.

(4) A court may order a person convicted under ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428 to participate in available animal cruelty prevention programs or education programs, or both, or to obtain psychological counseling for treatment of mental health disorders that, in the court's judgment, contributed to the commission of the crime. The person shall bear any costs incurred by the person for participation in counseling or treatment programs under this subsection.

(5) ORS 131.550 to 131.600 do not apply to the forfeiture of an animal subjected to a violation of ORS 167.315 to 167.333, 167.340, 167.355, 167.365 or 167.428. Any such animal is subject to forfeiture as provided in **ORS 167.347 and** subsections (1) to (3) of this section or, if the animal is a fighting bird, as provided in ORS 167.435.

**SECTION 9.** ORS 105.597 is amended to read:

105.597. In addition to any places described in ORS 105.555, the following are declared to be nuisances and shall be enjoined and abated as provided in ORS 105.550 to 105.600:

(1) Any place being used on a continuous, regular or sporadic basis for carrying out any of the following activities, except with regard to activities and animals described under ORS 167.335, whether or not carried out with a particular mental state:

(a) Causing physical injury or serious physical injury, both as defined in ORS 167.310, or [cruelly] causing death.

(b) [Killing maliciously as defined in ORS 167.322 or] Committing torture as defined in ORS 167.322.

(c) Failing to provide minimum care as defined in ORS 167.310.

(d) Possession of **or residing with** a domestic animal as defined in ORS 167.310 by a person described under ORS 167.332.

(2) Any place appearing to be vacant at which a domestic animal or equine, both as defined in ORS 167.310, are present and have been left without provision for minimum care as defined in ORS 167.310.

(3) Any place being used on a continuous, regular or sporadic basis for carrying out any of the following activities, whether or not carried out with a particular mental state:

(a) Training or keeping an animal for use in an exhibition of fighting as defined in ORS 167.355.

(b) Preparing for, occupation for, promoting, conducting or participating in an exhibition of fighting as defined in ORS 167.355.

(c) Possessing, keeping, breeding, training, buying, selling or offering for sale a fighting dog as defined in ORS 167.360.

(d) Promoting, conducting, participating in or performing services in furtherance of a dogfight as defined in ORS 167.360.

(e) Occupation, keeping or use of the place for a dogfight as defined in ORS 167.360.

(f) Exchanging for commerce raw fur of a domestic cat or dog as defined in ORS 167.390, or products that include the fur of a domestic cat or dog, if the fur is obtained through a process that kills or maims the domestic cat or dog.

(g) Possessing, keeping, rearing, training, buying, selling or offering for sale a fighting bird as defined in ORS 167.426.

(h) Promoting, conducting, participating in or performing services in furtherance of a cockfight as defined in ORS 167.426.

(i) Occupation, keeping or use of the place for a cockfight as defined in ORS 167.426.

(4) Any place being used on a continuous, regular or sporadic basis for carrying out any of the following activities:

(a) Sexual assault of an animal as described in ORS 167.333.

(b) Possession of dogfighting paraphernalia as described under ORS 167.372.

(c) Selling or offering for sale equipment other than paraphernalia described in paragraph (b) of this subsection with the intent that the equipment be used to train a fighting dog as defined in ORS 167.360.

(d) Possessing, controlling or otherwise having charge at the same time of more than 50 sexually intact dogs that are two or more years of age for the primary purpose of reproduction.

(e) Manufacturing, buying, selling, bartering, exchanging, possessing or offering for sale a gaff or slasher as those terms are defined in ORS 167.426, or other sharp implement designed for attachment to the leg of a fighting bird as defined in ORS 167.426, with the intent that the gaff, slasher or other sharp implement be used in a cockfight as defined in ORS 167.426.

(f) Manufacturing, buying, selling, bartering, exchanging, possessing or offering for sale equipment other than equipment described in paragraph (e) of this subsection with the intent that the equipment be used to train or handle a fighting bird as defined in ORS 167.426 or to enhance the fighting ability of a fighting bird.

**SECTION 10.** ORS 686.040 is amended to read:

686.040. (1) ORS 686.020 (1)(a) does not apply to commissioned veterinary officers of the United States Army, or those in the employ of other United States Government agencies while engaged in their official capacity, unless they enter into a private practice.

(2) Nothing in ORS **167.322 or** 686.020 (1)(a) shall be so construed as to prevent any person or the agent or employee of the person from practicing veterinary medicine and surgery or dentistry in a humane manner on any animal belonging to the person, agent or employee or for gratuitous services or from dehorning and vaccinating cattle for the person, agent or employee.

(3) Nothing in ORS 686.020 (1)(a) shall be so construed as to prevent the selling of veterinary remedies and instruments by a licensed pharmacist at the regular place of business of the licensed pharmacist.

(4) A practitioner of allied health methods may practice that method on animals without violating ORS 686.020 (1)(a), as long as the practice is in conformance with laws and rules governing the practitioner's practice and the practice is upon referral from a licensed veterinarian for treatment or therapy specified by the veterinarian.

(5) ORS 686.020 (1)(a) does not apply to the lay testing of poultry by the whole blood agglutination test.

(6) A certified euthanasia technician holding an active, current certificate may inject sodium pentobarbital, sedative and analgesic medications and any other euthanasia substance approved by the Oregon State Veterinary Medical Examining Board without violating ORS 686.020 (1)(a).

(7) The board by rule may specify circumstances under which unlicensed persons may give vaccinations, administer an anesthetic or otherwise assist in the practice of veterinary medicine.

(8) Any individual licensed as a veterinarian in another state may be used in consultation in this state with a person licensed to practice veterinary medicine in this state provided the consultation does not exceed 30 days in any 365 consecutive days.

(9) ORS 686.020 (1)(a) does not apply to authorized representatives of the State Department of Agriculture in the discharge of any duty authorized by the department.

(10) ORS 686.020 (1)(a) does not apply to an unlicensed representative of a livestock association, cow-testing association, or poultry association who, for the benefit of the association, takes blood samples for laboratory tests for the diagnosis of livestock or poultry diseases, but only if this person has received authorization from the State Department of Agriculture following a written request to the department.

(11) ORS 686.020 (1)(a) does not apply to persons permitted by the State Department of Fish and Wildlife to rehabilitate orphaned, sick or injured wildlife, as defined in ORS 496.004, for the purpose of restoring the animals to the wild.

(12) ORS 686.020 (1)(a) does not apply to students, agents or employees of public or private educational or medical research institutions involved in educational or research activities under the auspices of those institutions.

(13) ORS 686.020 (1)(a) does not apply to:

(a) Veterinarians employed by Oregon State University;

(b) Instructors of veterinary courses; or

(c) Students of veterinary science who participate in the diagnosis and treatment of animals if the students:

(A) Are participating in the diagnosis and treatment of animals while engaged in an educational program approved by the board or a college of veterinary medicine accredited by the American Veterinary Medical Association; and

(B) Are under the direct supervision of an Oregon licensed veterinarian or a veterinarian approved by the board or Oregon State University to supervise students in the educational program.

**SECTION 11. Section 2 of this 2024 Act and the amendments to ORS 105.597, 167.320, 167.322, 167.330, 167.332, 167.350 and 686.040 by sections 3, 4 and 6 to 10 of this 2024 Act apply to conduct occurring on or after the effective date of this 2024 Act.**

**SECTION 12. This 2024 Act takes effect on the 91st day after the date on which the 2024 regular session of the Eighty-second Legislative Assembly adjourns sine die.**

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**Passed by House February 15, 2024**

**Repassed by House March 6, 2024**

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

**Passed by Senate March 5, 2024**

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Rob Wagner, President of Senate

**Received by Governor:**

.....M.,....., 2024

**Approved:**

.....M.,....., 2024

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Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2024

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LaVonne Griffin-Valade, Secretary of State