

# House Bill 4043

Sponsored by Representative CONRAD; Representatives BOWMAN, GOMBERG, HELFRICH, LEVY B, MANNIX, OSBORNE, OWENS, RESCHKE, WRIGHT, Senator ANDERSON (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

**Digest:** The Act creates a new crime of interfering with an animal cruelty investigation. The Act makes certain changes to current animal cruelty laws. The Act allows a person who is banned from owning or living with an animal to ask to change the ban. (Flesch Readability Score: 65.0).

Creates the crime of interfering with an investigation into an offense against an animal. Punishes by a maximum of 364 days' imprisonment, a \$6,250 fine, or both.

Establishes certain changes related to the crime of animal abuse in the first degree.

Establishes certain changes related to the crime of aggravated animal abuse in the first degree.

Establishes certain changes related to the crime of animal neglect in the first degree.

Prohibits a person convicted of violating certain animal cruelty statutes from possessing or residing with an animal of the same genus against which the crime was committed or a domestic animal for a certain period of time. Punishes a violation of a prohibition by a maximum of six months' imprisonment, a \$2,500 fine, or both. Allows a person subject to a prohibition to request changes to the prohibition under certain circumstances. Punishes a violation of an amended order of prohibition by a maximum of 364 days' imprisonment, a \$6,250 fine, or both.

## A BILL FOR AN ACT

Relating to animal cruelty; creating new provisions; and amending ORS 105.597, 167.320, 167.322, 167.330, 167.332 and 167.350.

**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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 following offenses:

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

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

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

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

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

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

17 167.322. (1) A person commits the crime of aggravated animal abuse in the first degree if the  
 18 person **intentionally or knowingly**:

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

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

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

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

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

24 *[(2)]* **(3) Aggravated animal abuse in the first degree is a Class C felony and the Oregon Criminal**  
 25 **Justice Commission shall classify the offense as crime category 6 of the sentencing guidelines grid.**

26 **(4) Notwithstanding subsection (3) of this section, the Oregon Criminal Justice Commis-**  
 27 **sion shall classify the offense of aggravated animal abuse in the first degree as crime cate-**  
 28 **gory 7 of the sentencing guidelines grid if:**

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

31 **(A) Any offense under ORS 163.160, 163.165, 163.175, 163.185 or 163.187 or the equivalent**  
 32 **laws of another jurisdiction, if the offense involved domestic violence as defined in ORS**  
 33 **135.230 or the offense was committed against a minor child; or**

34 **(B) Any offense under this section or ORS 167.320, or the equivalent laws of another ju-**  
 35 **risdiction; or**

36 **(b) The person knowingly commits the animal abuse in the immediate presence of a mi-**  
 37 **nor child. For purposes of this paragraph, a minor child is in the immediate presence of an-**  
 38 **imal abuse if the abuse is seen or directly perceived in any other manner by the minor child.**

39 *[(3)]* **(5) As used in this section[:]**

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

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

43 **SECTION 5.** ORS 167.330 is amended to read:

44 167.330. (1) A person commits the crime of animal neglect in the first degree if, except as oth-  
 45 erwise authorized by law, the person intentionally, knowingly, recklessly or with criminal

1 negligence:

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

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

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

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

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

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

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

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

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

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

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

22 **SECTION 6.** ORS 167.332 is amended to read:

23 167.332. (1) Except as provided in subsections (3) and (4) of this section:

24 (a) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.315,  
25 167.340 or 167.355 or of a misdemeanor under ORS 167.320, 167.325 or 167.330 **or this section** may  
26 not possess **or reside with** any animal of the same genus against which the crime was committed  
27 or any domestic animal for a period of five years following entry of the conviction.

28 (b) In addition to any other penalty imposed by law, a person convicted of violating ORS 167.322,  
29 167.333, 167.365 or 167.428 or of a felony under ORS 167.320, 167.325 or 167.330 may not possess **or**  
30 **reside with** any animal of the same genus against which the crime was committed or any domestic  
31 animal for a period of 15 years following entry of the conviction. [*However, the sentencing court may*  
32 *reduce the prohibition period if the person successfully completes mental health treatment approved by*  
33 *the court.*]

34 (2) **Except as provided in subsection (5)(d) of this section**, a person who possesses **or resides**  
35 **with** an animal in violation of this section commits a Class [C] **B** misdemeanor. When a person is  
36 convicted of possessing **or residing with** an animal in violation of this section, as part of the sen-  
37 tence the court may order the removal of that animal from the person's **possession or** residence  
38 and as a condition of the person's probation may prohibit the person from possessing **or residing**  
39 **with** any animal of the same genus that the person unlawfully possessed **or resided with** under this  
40 section or against which the underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330,  
41 167.333, 167.340, 167.355, 167.365 or 167.428 **or this section** was committed.

42 (3) The [*animal possession*] prohibition described in subsection (1) of this section does not apply  
43 to a person's first conviction if the person is the owner of a commercial livestock operation and the  
44 underlying violation of ORS 167.315, 167.320, 167.322, 167.325, 167.330, 167.333, 167.340, 167.355,  
45 167.365 or 167.428 was committed against livestock.

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

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

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

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

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

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

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

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

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

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

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

21 (C) The person is capable of providing and willing to provide necessary, adequate and appro-  
 22 priate levels of care for all livestock that would come within the person’s custody or control if the  
 23 petition is granted.

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

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

34 (e) As used in this subsection, “commercial livestock operation” means a **licensed** business en-  
 35 gaged in the raising, breeding or selling of livestock for profit.

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

41 **(A) File a sworn affidavit in support of the motion stating that, apart from the underly-**  
 42 **ing offense, the person has not been previously convicted of a violation of ORS 167.315,**  
 43 **167.333, 167.340, 167.355, 167.365 or 167.428, of a misdemeanor or a felony under ORS 167.320,**  
 44 **167.325 or 167.330, or of a violation of the equivalent laws of another jurisdiction.**

45 **(B) Serve a copy of the motion upon the office of the prosecuting attorney who prose-**

1 **cluded the offense.**

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

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

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

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

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

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

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

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

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

16 **(A) Enter an order terminating the prohibition, reducing the length of the prohibition,**  
 17 **amending the prohibition to exclude certain categories of animals or amending the prohibi-**  
 18 **tion to exclude certain specific animals.**

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

25 **(d) A person whose motion under this subsection has been granted and who possesses**  
 26 **or resides with an animal in violation of an order described in paragraph (c)(A) of this sub-**  
 27 **section commits a Class A misdemeanor. If a person is convicted of a violation described in**  
 28 **this paragraph, as part of the sentence the sentencing court may order the removal of the**  
 29 **animal from the person's possession or residence.**

30 **SECTION 7.** ORS 167.350 is amended to read:

31 167.350. (1)(a) In addition to and not in lieu of any other sentence it may impose, a court [*may*]  
 32 **shall** require a defendant convicted under ORS 167.315 to 167.333, 167.340, 167.355 or 167.365 to  
 33 forfeit any rights of the defendant in the animal subjected to the violation, and to repay the rea-  
 34 sonable costs incurred by a government agency, a humane investigation agency or its agent or a  
 35 person prior to judgment in caring for each animal associated with the criminal proceeding.

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

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

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

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

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

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

19 **SECTION 8.** ORS 105.597 is amended to read:

20 105.597. In addition to any places described in ORS 105.555, the following are declared to be  
 21 nuisances and shall be enjoined and abated as provided in ORS 105.550 to 105.600:

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

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

27 (b) [*Killing maliciously as defined in ORS 167.322 or*] Committing torture as defined in ORS  
 28 167.322.

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

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

32 (2) Any place appearing to be vacant at which a domestic animal or equine, both as defined in  
 33 ORS 167.310, are present and have been left without provision for minimum care as defined in ORS  
 34 167.310.

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

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

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

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

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

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

45 (f) Exchanging for commerce raw fur of a domestic cat or dog as defined in ORS 167.390, or

1 products that include the fur of a domestic cat or dog, if the fur is obtained through a process that  
2 kills or maims the domestic cat or dog.

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

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

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

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

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

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

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

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

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

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

25