



**DEPARTMENT OF JUSTICE**  
OFFICE OF THE ATTORNEY GENERAL

DATE: February 8, 2024

TO: Chair Kropf, Vice-Chairs Andersen and Wallan,  
and Members of the House Committee on Judiciary

FROM: Jake Kamins, Senior Assistant Attorney General and Animal Cruelty Resource  
Prosecutor, Oregon Department of Justice

SUBJECT: Support for HB 4043 – Animal Cruelty Laws

The Department of Justice supports measures that both strengthen Oregon laws related to the cruel mistreatment of animals and that provide clear guidance for attorneys, agencies, and courts involved in enforcement of these laws. DOJ wholeheartedly supports HB 4043's improvements to Oregon's animal cruelty laws.

As the statewide prosecutor of animal cruelty since 2013, I have significant experience researching, charging, and prosecuting Oregon's animal cruelty laws. On January 2<sup>nd</sup> of this year, I started as the Animal Cruelty Resource Prosecutor in the DOJ's Criminal Justice Division. There, I joined a team of resource prosecutors who specialize in domestic violence, DUII, bias crimes, and environmental and culture resources. DOJ's resource prosecutors assist line prosecutors throughout the state on these often technically complex and troubling cases, and I am proud to have joined their ranks.

HB 4043 fixes the most significant flaws in Oregon's animal cruelty statutes. In brief, it increases penalties for intentional and knowing abuse and neglect of animals, clarifies the state's post-conviction animal possession ban, and criminalizes attempts to conceal animal cruelty from authorities.

**Oregon's Animal Cruelty Laws Should Distinguish Between Intentional, Knowing and Reckless Neglect, and Neglect that is Criminally Negligent**

Under current law, a person who neglects an animal and intentionally, knowingly, or recklessly causes serious physical injury or death to the animal cannot be prosecuted for felony animal neglect unless there are specific aggravating circumstances, such as a prior animal neglect conviction, the neglect occurring in the presence of a minor, or the criminal episode involving 10 or more animals. Without these aggravating factors, this serious and harmful conduct would be a mere misdemeanor offense.

As I have seen in over a decade of practice, animal neglect can often be the product of a lack of education or knowledge on the part of the neglecter. On the other hand, some animal neglecters are fully aware of their behavior, standing idly by as their animals starve, suffer, and ultimately die from wholly avoidable conditions. I have seen people warned repeatedly by neighbors, family members, law enforcement, and animal services officers that they are endangering their animals, only to have those animals go on to suffer and die.

Intentional, knowing, or reckless neglect—when a defendant at least has an awareness of the risk that their animal is suffering—should be distinguished from criminally negligent neglect. If a person has the conscious objective to cause (or an awareness of) these horrific outcomes, they should be held to account on a higher level. Section 5 of HB 4043 makes this important change.

### **Oregon’s Aggravated Animal Abuse Statute Contains Unnecessarily Confusing Language**

Aggravated Animal Abuse in the First Degree, as it is currently defined, criminalizes “maliciously” killing animals. “Maliciously” is defined as “intentionally acting with a depravity of mind and reckless and wanton disregard of life.” This puzzling definition does not conform to any known dictionary definition of “malicious” and appears nowhere else in Oregon’s criminal or civil codes.

This language causes significant confusion among the law enforcement and animal services officers who investigate these offenses, district attorneys who prosecute the offenders, defense attorneys trying to defend their clients, and judges and juries adjudicating these matters.

HB 4043 proposes a simple fix to the confusion. Under Sections 3 and 4, if a person intentionally or knowingly causes serious physical injury or death to an animal, that constitutes felony Aggravated Animal Abuse. If instead they act recklessly, or only inflict physical injury, that remains a misdemeanor.

Section 4 also clarifies that this offense does not apply to any practice of good animal husbandry.

### **Animal Victims of Cruelty are Particularly Vulnerable to Attempts to Hide Them**

When law enforcement and animal services investigate animal cruelty, one major hurdle they face is that the alleged offenders, along with their friends and family, can quickly and easily transport animals to different properties, removing critical evidence of the offense. Unlike many human victims of abuse and neglect, animals have no way of communicating their distress to emergency or other protective services and can be moved quickly and quietly.

Section 2 of HB 4034 criminalizes intentional and knowing actions that stymie investigations into animal cruelty by creating the offense of Interfering with an Investigation into an Offense Against an Animal. The statute is intended to cover active behavior by suspects and others designed to

prevent lawful investigations into allegations of animal cruelty and is not intended to infringe on any right of suspects not to cooperate with an investigation.

### **Oregon Courts Need Clarification on The Statutory Post-Conviction Animal Possession Ban**

Oregon bans the possession of domestic animals by persons convicted animal cruelty offenses for 5 years for a misdemeanor conviction and 15 years for a felony conviction. I have seen one question raised repeatedly: What happens when a person is convicted of animal cruelty, but they live with animals they do not themselves own?

Section 6 of HB 4043 clarifies the reach of the possession ban by making it a “possess or reside with” ban. The bill balances this impact by offering defendants who would otherwise be subject to the ban (and who did not act intentionally or knowingly) the opportunity to have their ban modified or struck entirely by requesting a hearing before the sentencing court.

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