

Submitter: Bleauregard Kasadu
On Behalf Of:
Committee: Senate Committee On Judiciary
Measure: HB4145

This bill needs to be amended to include language in the definition of "visual recording" to reflect that the government does not have the authority to prosecute someone under the law introduced by this bill for depictions of animal crushing, pursuant to the Right of Free Speech set forth by the Freedom of Speech Clause of the First Amendment of the US Constitution.

At first glance, such a depiction would seek to apply obscenity laws. The decision in *Miller v. California* set forth criteria for a claim of obscenity on the subject of sexual material, which we can use as a basis for the determination of obscenity in other forms of media. The criteria sought to draw the line between media that can cause significant injury to society, and media that is protected by the the Right of Free Speech. It was determined that in order for a claim of obscenity to stand in the context of sexual material, a piece of media taken as a whole must appeal to the prurient interest based on "community standards"; the work must describe sexual conduct or excretory functions in an offensive way, as defined by applicable state laws; AND the work, taken as a whole, must lack any serious literary, artistic, political, or scientific value.

Applied in the context of depictions of animal crushing, we can say that "prurient" interest is replaced by the interest of pleasure and entertainment if "prurient" is not applicable.

Though "community standards" cannot be justly applied, as it implies gentrification. The idea being that the "community standards" of Las Vegas would be different than that of, say, Utah. To promote local community standards as a basis for defining constitutional rights would be the state unfairly influencing the cultures of the locale wherein such a claim of injury is made, by prioritizing conservative or liberal views based on geography and prevalence of thought in an area.

Instead of "sexual conduct" or "excretory functions", we would simply apply "animal abuse".

If a depiction of animal crushing and abuse were to be criminalized, then we wouldn't be able to enjoy Wile E. Coyote being crushed by an ACME product, or Brian Griffin getting "the business" when he failed to pay back Stewie for money he borrowed on Family Guy, even though he had money for fake mustaches. I personally grew up with Looney Tunes. The shenanigans of all the different animals being harmed on the shows brings about feelings of nostalgia. Remembering those Saturday morning

cartoons in my PJs. The cereal I would eat had more of a negative impact on me than the shows did. I cannot tell you how many times I have laughed at the fights between Peter Griffin and the Chicken, and the depictions of violence in those scenes are cringe-worthy. Chickens are among my favorite animals, and I wouldn't ever abuse one.

We never talk about the abuses of the animals on Looney Tunes, Tom and Jerry, or Family Guy because we know these depictions do not impact our tendency towards violence and abuse. It's not much different from video games. We can separate ourselves from the depictions we see and enjoy the irony, nostalgia, and entertainment without thinking these are appropriate forms of behavior in the real world. Such depictions can be used as a tool to illustrate the lessons brought about by these works, or otherwise spur important philosophical conversations. It is for these reasons that this bill, while generally appropriate to bring about, needs to be amended to protect depictions of animal abuse while preserving the prosecution of visual recordings of actual animal abuse.

There also needs to be a way in which we can tell apart actual recordings of animal abuse from AI-generated depictions.