



BJC Animal Control Services

Policies & Procedures

Operations Manual

HB182 – Pet Protection Act of Alabama 31676-2

By Representatives Galliher and Hill
RFD: Agriculture, Forestry and Natural Resources
First Read: 01-FEB-2000

HB182

Enrolled, An Act,

To establish the crimes of cruelty to a dog or cat and of intentional extreme cruelty to a domesticated dog or domesticated cat; to provide for penalties; to provide immunity under certain conditions; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) The word "torture" as used in this act shall mean the act of doing physical injury to a dog or cat by the infliction of inhumane treatment or gross physical abuse meant to cause said animal intensive or prolonged pain or serious physical injury, or thereby causing death due to said act.

(b) The word "cruel" as used in this act shall mean: Every act, omission, or neglect, including abandonment, where unnecessary or unjustifiable pain or suffering, including abandonment, is caused or where unnecessary pain or suffering is allowed to continue.

(c) The words "dog or cat" as used in this act shall mean any domesticated member of the canine or feline dog or cat family.

Section 2. (a) A person commits the crime of cruelty to a dog or cat in the first degree if he or she intentionally tortures any dog or cat or skins a domestic dog or cat or offers for sale or exchange or offers to buy or exchange the fur, hide, or pelt of a domestic dog or cat. Cruelty to a dog or cat in the first degree is a Class C felony. A conviction for a felony pursuant to this section shall not be considered a felony for purposes of the Habitual Felony Offender Act, Section 13A-5-9 to 13A-5-10.1, inclusive, Code of Alabama 1975.

(b) A person commits the crime of cruelty to a dog or cat in the second degree if he or she, in a cruel manner, overloads, overdrives, deprives of necessary sustenance or shelter, unnecessarily or cruelly beats, injures, mutilates, or causes the same to be done. Cruelty to a dog or cat in the second degree is a Class A misdemeanor.

Section 3. Any county or municipality may appoint one or more trained agents to inspect alleged violations of this act, to protect dogs or cats from any cruelty charged, and to prevent any cruelty to any dog or cat. Any appointment made pursuant to this section shall be made at a meeting of the local governing body duly called with notice.

Section 4. (a) Any law enforcement officer and any agent of the county or the municipality appointed pursuant to

Section 3, having reasonable belief, evidence of, or having found a dog or cat to be neglected or cruelly treated may perform either of the following:

(1) Remove the dog or cat from its present location.

(2) Order the owner of the dog or cat to provide certain care to the dog or cat at the owner's expense without the removal of the dog or cat from its present location.

(b) Neither the county or municipality, nor any employee or agent of the county or municipality, acting in good faith, shall be liable for any actions taken under this section, regardless of whether or not the dog or cat is returned to its owner after impoundment.

Section 5. (a) The law enforcement officer or any agent of the county or of the municipality, without the requirement of any fee or charge for court costs, shall immediately petition the municipal court if the violation involves a municipal ordinance or the district court in the county in which the dog or cat is found for a hearing to be set within 20 days of seizure of the dog or cat or issuance of the order to provide care. The hearing shall be held not more than 10 days after the setting of the date to determine whether the owner, if known, is able to provide adequately and protectively for the dog or cat and is fit to have custody of the dog or cat. The hearing shall be concluded and the court order entered within 30 days after the date the hearing is commenced.

(b) The owner, at least five days prior to holding such a hearing, shall be notified of the date of the hearing to determine if the owner is able to provide adequately and protectively for the dog or cat and is fit to have custody of the dog or cat.

Section 6. (a) The law enforcement officer or agent of the county or municipality shall may provide for the dog or cat until either the dog or cat is returned to the owner by the court, or the court refuses to return the dog or cat to the owner and implements one of the procedures pursuant to subsection (c).

(b.) If the owner is adjudged by the court, with certification from a licensed veterinarian, to be able to provide adequately for and have custody of the dog or cat, the dog or cat shall be returned to the owner. If the court determines that the owner of the dog or cat is unable, unwilling, or unfit to adequately provide for, protect, and have custody of the dog or cat, the court may implement the following by court order:

(c.) Upon the testimony of the person taking custody, a licensed veterinarian, or another qualified witness that the dog or cat requires destruction or other disposition for humane reasons or is of no commercial value, order the dog or cat destroyed or remanded directly to the custody of the dog or cat control, humane shelter, or similar facility designated by the county or the municipality or other appropriate person to be disposed of by the facility or person in a humane manner.

(d.) Upon proof of the costs incurred by the agent or agency having custody of the dog or cat, order that the owner pay any costs incurred for the care of the dog or cat and for any costs incurred in destroying the dog or cat. A separate hearing may be held by the judge of the

district court on the assessment of costs, which assessment shall include all costs of notice and hearing. In the event the court finds the owner innocent of charges, the owner shall not be charged with costs of the care of the dog or cat in custody.

(e.) If the court determines that the owner is unable, unwilling, or unfit to adequately provide for and protect any other dog or cat in the custody of the owner that was not originally seized by the agency, agent, or other person when the dog or cat in custody was seized, the court may enjoin the owner of further possession or custody of the unseized dog or cat.

Section 7. This act shall not apply to any of the following persons or institutions:

- 1) Academic and research enterprises that use dogs or cats for medical or pharmaceutical research or testing.
- 2) Any owner of a dog or cat who euthanizes the dog or cat for humane purposes.
- 3) Any person who kills a dog or cat found outside of the owned or rented property of the owner or custodian of the dog or cat when the dog or cat threatens immediate physical injury or is causing physical injury to any person, farm animal, birds, or silvicultural or agricultural industry.
- 4) A person who shoots a dog or cat with a BB gun not capable of inflicting serious injury when the dog or cat is defecating or urinating on the person's property.
- 5) A person who uses a training device, anti-bark collar, or an invisible fence on his or her own dog or cat or with permission of the owner.

Section 8. This article shall not be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of this article is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

Section 9. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.