

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 204

Introduced by Larson, 40.

Read first time January 15, 2013

Committee:

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section 54-908,
2 Reissue Revised Statutes of Nebraska, and sections 28-101
3 and 28-1017, Revised Statutes Cumulative Supplement,
4 2012; to change provisions relating to the reporting of
5 cruelty to animals; to change penalties; to create the
6 offense of damaging or interfering with the operations of
7 an animal facility; to define terms; to provide
8 penalties; to harmonize provisions; and to repeal the
9 original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 28-101 Sections 28-101 to 28-1356 and section 3 of this
4 act shall be known and may be cited as the Nebraska Criminal Code.

5 Sec. 2. Section 28-1017, Revised Statutes Cumulative
6 Supplement, 2012, is amended to read:

7 28-1017 (1) For purposes of this section, reasonably +
8 ~~(a) Reasonably~~ suspects means a basis for reporting knowledge or a
9 set of facts that would lead a person of ordinary care and prudence
10 to believe and conscientiously entertain a strong suspicion that
11 criminal activity is at hand or that a crime has been committed. +
12 ~~and~~

13 ~~(b) Employee means any employee of a governmental agency~~
14 ~~dealing with child or adult protective services, animal control, or~~
15 ~~animal abuse.~~

16 (2) Any ~~employee, while acting in his or her professional~~
17 ~~capacity or within the scope of his or her employment,~~ person who
18 observes or is involved in an incident which leads the ~~employee~~
19 person to reasonably suspect that an animal has been abandoned,
20 cruelly neglected, or cruelly mistreated shall report such to the
21 entity or entities that investigate such reports in that
22 jurisdiction.

23 (3) The report ~~of an employee~~ shall be made within ~~two~~
24 ~~working days of~~ twenty-four hours after acquiring the information
25 concerning the animal by ~~facsimile transmission of a written report~~

1 presented in the form described in subsection (6) of this section, ~~or~~
2 ~~by telephone~~. When an immediate response is necessary to protect the
3 health and safety of the animal or others, the report ~~of an employee~~
4 shall be made by telephone as soon as possible.

5 (4) Nothing in this section shall be construed to impose
6 a duty to investigate observed or reasonably suspected animal
7 abandonment, cruel neglect, or cruel mistreatment. Any person making
8 a report under this section is immune from liability except for false
9 statements of fact made with malicious intent.

10 (5) A report made ~~by an employee~~ pursuant to this section
11 shall include:

12 (a) The reporter's name, ~~and title, business address,~~ and
13 telephone number;

14 (b) The name, if known, of the animal owner or custodian,
15 whether a business or individual;

16 (c) A description of the animal or animals involved,
17 person or persons involved, and location of the animal or animals and
18 the premises; ~~and~~

19 (d) The date, the time, and a description of the
20 observation or incident which led the reporter to reasonably suspect
21 animal abandonment, cruel neglect, or cruel mistreatment and any
22 other information the reporter believes may be relevant; and -

23 (e) All original documentation, if any, or copies
24 thereof, including video, photographs, or audio, which is evidence of
25 animal abandonment, cruel neglect, or cruel mistreatment.

1 (6) A report made ~~by an employee~~ pursuant to this section
2 may be made on preprinted forms prepared by the entity or entities
3 that investigate reports of animal abandonment, cruel neglect, or
4 cruel mistreatment in that jurisdiction. The form shall include space
5 for the information required under subsection (5) of this section.

6 (7) When two or more ~~employees~~ persons jointly have
7 observed or reasonably suspected animal abandonment, cruel neglect,
8 or cruel mistreatment and there is agreement between or among them, a
9 report may be made by one person by mutual agreement. Any such
10 reporter who has knowledge that the person designated to report has
11 failed to do so shall thereafter make the report.

12 (8) Any ~~employee~~ person failing to report under this
13 section ~~shall be is~~ guilty of ~~an infraction.~~ a Class III misdemeanor.

14 Sec. 3. (1) Any person who makes a false statement or
15 representation as part of an application or agreement to be employed
16 at an animal facility with the intent of damaging or interfering with
17 the operations of an animal facility and in connection with such
18 purpose (a) intentionally causes economic damage to property used by
19 an animal facility or any property of a person or entity having a
20 connection to, a relationship with, or transactions with an animal
21 facility, (b) intentionally places a person in reasonable fear of the
22 death of or serious bodily injury to that person, a member of the
23 immediate family of that person, or a spouse or intimate partner of
24 that person, by a course of conduct involving economic damage, or (c)
25 conspires or attempts to perform such actions as described in

1 subdivision (1)(a) or (b) of this subsection shall be punished as
2 provided in subsection (2) of this section.

3 (2) The punishment for a violation of subsection (1) of
4 this section or an attempt or conspiracy to violate such subsection
5 shall be as follows:

6 (a) A Class I misdemeanor if:

7 (i) The violation does not instill in another the
8 reasonable fear of serious bodily injury or death; and

9 (ii)(A) The violation results in no economic damage,
10 death, or bodily injury; or

11 (B) The violation results in economic damage that does
12 not exceed ten thousand dollars;

13 (b) A Class IV felony if:

14 (i) No bodily injury occurs; and

15 (ii)(A) The violation results in economic damage
16 exceeding ten thousand dollars but not exceeding one hundred thousand
17 dollars; or

18 (B) The violation instills in another the reasonable fear
19 of serious bodily injury or death;

20 (c) A Class IIIA felony if:

21 (i) The violation results in economic damage exceeding
22 one hundred thousand dollars but not exceeding one million dollars;
23 or

24 (ii) The violation results in substantial bodily injury
25 to another individual;

1 (d) A Class III felony if:

2 (i) The violation results in serious bodily injury to
3 another individual; or

4 (ii) The violation results in economic damage exceeding
5 one million dollars; and

6 (e) A Class IB felony if the violation results in the
7 death of another individual.

8 (3) An order of restitution with respect to a violation
9 of this section may also include restitution for economic damage and
10 for any other economic loss, including any losses or costs caused by
11 economic disruption, resulting from the violation.

12 (4) For purposes of this section:

13 (a) Animal facility means:

14 (i) A location where an agricultural animal is maintained
15 for agricultural production;

16 (ii) A location dedicated to farming;

17 (iii) A livestock market;

18 (iv) A livestock exhibition;

19 (v) A location where an animal is maintained for
20 educational or scientific purposes, including, but not limited to, a
21 research facility or a livestock exhibition;

22 (vi) A zoo, an aquarium, an animal shelter, a pet store,
23 a breeder, a furrier, a circus, or a rodeo or any other lawful
24 competitive animal event; or

25 (vii) A location where the primary activity is the

1 transport of animals to such locations or facilities;

2 (b) Course of conduct means a pattern of conduct which is
3 composed of two or more acts and which evidences a continuity of
4 purpose;

5 (c) Economic damage:

6 (i) Means the replacement costs of lost or damaged real
7 or personal property, including animals or records, the costs of
8 repeating an interrupted or invalidated experiment, or the loss of
9 profits or increased costs, including losses and increased costs
10 resulting from threats, acts of vandalism, property damage, trespass,
11 harassment, or intimidation taken against a person or entity on
12 account of that person's or entity's connection to, relationship
13 with, or transactions with the animal facility; but

14 (ii) Does not include any lawful economic disruption,
15 including a lawful boycott that results from lawful public,
16 governmental, or business reaction to the disclosure of information
17 about an animal facility;

18 (d) Serious bodily injury means:

19 (i) Injury posing a substantial risk of death;

20 (ii) Extreme physical pain;

21 (iii) Protracted and obvious disfigurement; or

22 (iv) Protracted loss or impairment of the function of a
23 bodily member, body organ, or mental faculty; and

24 (e) Substantial bodily injury means:

25 (i) Deep cuts and serious burns or abrasions;

- 1 (ii) Short-term or nonobvious disfigurement;
2 (iii) Fractured or dislocated bones or torn members of
3 the body;
4 (iv) Significant physical pain;
5 (v) Illness;
6 (vi) Short-term loss or impairment of the function of a
7 bodily member, body organ, or mental faculty; or
8 (vii) Any other significant injury to the body not
9 included in subdivision (d) of this section.

10 (5) Nothing in this section shall be construed:

11 (a) To prohibit any expressive conduct, including
12 peaceful picketing or other peaceful demonstration, protected from
13 legal prohibition by the First Amendment to the Constitution of the
14 United States; or

15 (b) To create new remedies for interference with
16 activities protected by the free speech or free exercise clause of
17 the First Amendment to the Constitution of the United States
18 regardless of the point of view expressed or to limit any existing
19 legal remedies for such interference.

20 Sec. 4. Section 54-908, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 54-908 (1) For purposes of this section, reasonably ÷ ~~(a)~~
23 ~~Employee means any employee of a governmental agency dealing with~~
24 ~~livestock animal control or animal abuse; and (b) Reasonably suspects~~
25 means a basis for reporting knowledge or a set of facts that would

1 lead a person of ordinary care and prudence to believe and
2 conscientiously entertain a strong suspicion that criminal activity
3 is at hand or that a crime has been committed.

4 (2) Any ~~employee, while acting in his or her professional~~
5 ~~capacity or within the scope of his or her employment,~~ person who
6 observes or is involved in an incident which leads the ~~employee~~
7 person to reasonably suspect that a livestock animal has been
8 abandoned, cruelly neglected, or cruelly mistreated shall report such
9 to the entity or entities that investigate such reports in that
10 jurisdiction.

11 (3) The report ~~of an employee~~ shall be made within ~~two~~
12 ~~working days of twenty-four hours after~~ acquiring the information
13 concerning the livestock animal by ~~facsimile transmission of a~~
14 written report presented in the form described in subsection ~~(5)~~ (6)
15 of this section. ~~or by telephone.~~ When an immediate response is
16 necessary to protect the health and safety of the livestock animal or
17 others, the report ~~of an employee~~ shall be made by telephone as soon
18 as possible.

19 (4) Nothing in this section shall be construed to impose
20 a duty to investigate observed or reasonably suspected livestock
21 animal abandonment, cruel neglect, or cruel mistreatment. Any person
22 making a report under this section is immune from liability except
23 for false statements of fact made with malicious intent.

24 (5) A report made ~~by an employee~~ pursuant to this section
25 shall include:

1 (a) The reporter's name, ~~and title, business address,~~ and
2 telephone number;

3 (b) The name, if known, of the livestock animal owner or
4 custodian, whether a business or individual;

5 (c) A description of the livestock animal or livestock
6 animals involved, person or persons involved, and location of the
7 livestock animal or livestock animals and the premises; and

8 (d) The date, the time, and a description of the
9 observation or incident which led the reporter to reasonably suspect
10 livestock animal abandonment, cruel neglect, or cruel mistreatment
11 and any other information the reporter believes may be relevant;
12 and -

13 (e) All original documentation, if any, or copies
14 thereof, including video, photographs, or audio, which is evidence of
15 animal abandonment, cruel neglect, or cruel mistreatment.

16 (6) A report made ~~by an employee~~ pursuant to this section
17 may be made on preprinted forms prepared by the entity or entities
18 that investigate reports of livestock animal abandonment, livestock
19 animal cruel neglect, or livestock animal cruel mistreatment in that
20 jurisdiction. The form shall include space for the information
21 required under subsection (5) of this section.

22 (7) When two or more ~~employees~~ persons jointly have
23 observed or reasonably suspected livestock animal abandonment,
24 livestock animal cruel neglect, or livestock animal cruel
25 mistreatment and there is agreement between or among them, a report

1 may be made by one person by mutual agreement. Any such reporter who
2 has knowledge that the person designated to report has failed to do
3 so shall thereafter make the report.

4 (8) Any ~~employee-person~~ failing to report under this
5 section ~~shall be~~ is guilty of an ~~infraction.~~ a Class III misdemeanor.

6 Sec. 5. Original section 54-908, Reissue Revised Statutes
7 of Nebraska, and sections 28-101 and 28-1017, Revised Statutes
8 Cumulative Supplement, 2012, are repealed.