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SENATE BILL 83

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO CRIMINAL LAW; CLARIFYING THE CRIMES OF CRUELTY TO ANIMALS AND EXTREME CRUELTY TO ANIMALS; PROVIDING ALTERNATIVE PUNISHMENTS; PROVIDING DEFINITIONS; CLARIFYING THE APPLICATION OF THE PRACTICE OF VETERINARY MEDICINE; PROVIDING FOR PSYCHOLOGICAL COUNSELING; INCREASING THE PENALTY WHEN CRUELTY CAUSES DEATH OR GREAT BODILY HARM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-18-1 NMSA 1978 (being Laws 1999, Chapter 107, Section 1, as amended) is amended to read:

"30-18-1. CRUELTY TO ANIMALS--EXTREME CRUELTY TO ANIMALS--PENALTIES--EXCEPTIONS--DEFINITIONS.--

~~[A. As used in this section, "animal" does not include insects or reptiles.~~

~~B.]~~ A. Cruelty to animals consists of a person:

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1 (1) [~~negligently~~] recklessly mistreating,
2 injuring [~~killing without lawful justification~~] or tormenting
3 an animal; [~~or~~]

4 (2) recklessly or intentionally abandoning an
5 animal under that person's custody or control; or

6 (3) recklessly or intentionally failing to
7 provide necessary sustenance to an animal under that person's
8 custody or control.

9 [~~G. As used in Subsection B of this section,~~
10 ~~"lawful justification" means:~~

11 (1) ~~humanely destroying a sick or injured~~
12 ~~animal; or~~

13 (2) ~~protecting a person or animal from death~~
14 ~~or injury due to an attack by another animal.~~

15 ~~D.]~~ B. Whoever commits cruelty to animals is guilty
16 of a misdemeanor and shall be [~~sentenced pursuant to the~~
17 ~~provisions of Section 31-19-1 NMSA 1978~~] punished by
18 imprisonment for a definite term of less than one year or
19 payment of a fine not to exceed one thousand dollars (\$1,000),
20 but not both. Upon a fourth or subsequent conviction for
21 committing cruelty to animals, the offender is guilty of a
22 fourth degree felony and shall be [~~sentenced pursuant to the~~
23 ~~provisions of Section 31-18-15 NMSA 1978~~] punished by eighteen
24 months imprisonment or payment of a fine not to exceed five
25 thousand dollars (\$5,000), but not both.

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1 C. Whoever commits cruelty to animals that causes
2 death or great bodily harm to the animal is guilty of a fourth
3 degree felony and shall be punished by eighteen months
4 imprisonment or payment of a fine not to exceed five thousand
5 dollars (\$5,000), but not both.

6 [E-] D. Extreme cruelty to animals consists of a
7 person:

- 8 (1) intentionally or maliciously [~~torturing,~~
9 ~~mutilating, injuring or poisoning~~] mistreating an animal; or
10 (2) maliciously killing an animal without
11 lawful justification.

12 [F-] E. Whoever commits extreme cruelty to animals
13 is guilty of a fourth degree felony and shall be [~~sentenced~~
14 ~~pursuant to the provisions of Section 31-18-15 NMSA 1978~~]
15 punished by eighteen months imprisonment or payment of a fine
16 not to exceed five thousand dollars (\$5,000), but not both.

17 [G-] F. The court may order a person convicted for
18 committing cruelty to animals to participate in an animal
19 cruelty prevention program or an animal cruelty education
20 program. The court may also order a person convicted for
21 committing cruelty to animals [~~or extreme cruelty to animals~~]
22 to obtain psychological counseling for treatment of a mental
23 health disorder if, in the court's judgment, the mental health
24 disorder contributed to the commission of the criminal offense.
25 The court shall order a person convicted of extreme cruelty to

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1 animals to obtain psychological counseling. The offender shall
2 bear the expense of participating in an animal cruelty
3 prevention program, animal cruelty education program or
4 psychological counseling ordered by the court.

5 ~~[H.]~~ G. If a child is adjudicated of cruelty to
6 animals, the court shall order an assessment and any necessary
7 psychological counseling or treatment of the child.

8 ~~[I.]~~ H. The provisions of this section do not apply
9 to:

10 (1) fishing, hunting, falconry, taking and
11 trapping, as provided in Chapter 17 NMSA 1978;

12 (2) the practice of veterinary medicine, as
13 provided in Chapter 61, Article 14 NMSA 1978, when the practice
14 is in accordance with commonly accepted veterinary practices;

15 (3) rodent or pest control, as provided in
16 Chapter 77, Article 15 NMSA 1978;

17 (4) the treatment of livestock and other
18 animals used on farms and ranches for the production of food,
19 fiber or other agricultural products, when the treatment is in
20 accordance with commonly accepted agricultural animal husbandry
21 practices;

22 (5) the use of commonly accepted Mexican and
23 American rodeo practices, unless otherwise prohibited by law;

24 (6) research facilities ~~[licensed]~~ registered
25 pursuant to ~~[the provisions of]~~ 7 U.S.C. Section 2136, except

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1 when knowingly operating outside provisions governing the
2 treatment of animals of a research or maintenance protocol
3 approved by the institutional animal care and use committee of
4 the facility; or

5 (7) other [~~similar~~] activities not otherwise
6 prohibited by law.

7 I. If there is a dispute as to what constitutes
8 commonly accepted veterinary practices, the board of veterinary
9 medicine shall hold a hearing to determine if the practice in
10 question is a commonly accepted veterinary practice. Criminal
11 charges shall not be filed until after the board has made a
12 determination.

13 J. If there is a dispute as to what constitutes
14 commonly accepted agricultural animal husbandry practices or
15 commonly accepted rodeo practices, the New Mexico livestock
16 board shall hold a hearing to determine if the practice in
17 question is a commonly accepted agricultural animal husbandry
18 practice or commonly accepted rodeo practice. Criminal charges
19 shall not be filed until after the board has made a
20 determination.

21 K. As used in this section:

22 (1) "animal" means captive invertebrates and
23 all vertebrates except for humans and noncaptive snakes;

24 (2) "captive" means subject to habitual
25 confinement and control by one or more persons;

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