

## HOUSE BILL No. 2302

By Committee on Judiciary

2-7

1 AN ACT concerning animals; relating to the custody and disposition of  
2 cruelly treated animals; amending K.S.A. 2016 Supp. 21-6412 and 21-  
3 6414 and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2016 Supp. 21-6412 is hereby amended to read as  
7 follows: 21-6412. (a) Cruelty to animals is:

8 (1) Knowingly and maliciously killing, injuring, maiming, torturing,  
9 burning or mutilating any animal;

10 (2) knowingly abandoning any animal in any place without making  
11 provisions for its proper care;

12 (3) having physical custody of any animal and knowingly failing to  
13 provide such food, potable water, protection from the elements,  
14 opportunity for exercise and other care as is needed for the health or well-  
15 being of such kind of animal;

16 (4) intentionally using a wire, pole, stick, rope or any other object to  
17 cause an equine to lose its balance or fall, for the purpose of sport or  
18 entertainment;

19 (5) knowingly but not maliciously killing or injuring any animal; or

20 (6) knowingly and maliciously administering any poison to any  
21 domestic animal.

22 (b) Cruelty to animals as defined in:

23 (1) Subsection (a)(1) or (a)(6) is a nonperson felony. Upon conviction  
24 of subsection (a)(1) or (a)(6), a person shall be sentenced to not less than  
25 30 days or more than one year's imprisonment and be fined not less than  
26 \$500 nor more than \$5,000. The person convicted shall not be eligible for  
27 release on probation, suspension or reduction of sentence or parole until  
28 the person has served the minimum mandatory sentence as provided  
29 herein. During the mandatory 30 days imprisonment, such offender shall  
30 have a psychological evaluation prepared for the court to assist the court in  
31 determining conditions of probation. Such conditions shall include, but not  
32 be limited to, the completion of an anger management program; and

33 (2) subsection (a)(2), (a)(3), (a)(4) or (a)(5) is a:

34 (A) Class A nonperson misdemeanor, except as provided in  
35 subsection (b)(2)(B); and

36 (B) nonperson felony upon the second or subsequent conviction of

1 cruelty to animals as defined in subsection (a)(2), (a)(3), (a)(4) or (a)(5).  
 2 Upon such conviction, a person shall be sentenced to not less than five  
 3 days or more than one year's imprisonment and be fined not less than \$500  
 4 nor more than \$2,500. The person convicted shall not be eligible for  
 5 release on probation, suspension or reduction of sentence or parole until  
 6 the person has served the minimum mandatory sentence as provided  
 7 herein.

8 (c) The provisions of this section shall not apply to:

9 (1) Normal or accepted veterinary practices;

10 (2) bona fide experiments carried on by commonly recognized  
 11 research facilities;

12 (3) killing, attempting to kill, trapping, catching or taking of any  
 13 animal in accordance with the provisions of chapter 32 or chapter 47 of the  
 14 Kansas Statutes Annotated, and amendments thereto;

15 (4) rodeo practices accepted by the rodeo cowboys' association;

16 (5) the humane killing of an animal ~~which~~ that is diseased or disabled  
 17 beyond recovery for any useful purpose, or the humane killing of animals  
 18 for population control, by the owner thereof or the agent of such owner  
 19 residing outside of a city or the owner thereof within a city if no animal  
 20 shelter, ~~pound~~ or licensed veterinarian is within the city, or by a licensed  
 21 veterinarian at the request of the owner thereof, or by any officer or agent  
 22 of ~~an incorporated humane society, the operator of an animal shelter or~~  
 23 ~~pound~~, a local or state health officer or a licensed veterinarian three  
 24 business days following the receipt of any such animal at such ~~society,~~  
 25 ~~shelter or pound~~;

26 (6) with respect to farm animals, normal or accepted practices of  
 27 animal husbandry, including the normal and accepted practices for the  
 28 slaughter of such animals for food or by-products and the careful or thrifty  
 29 management of one's herd or animals, including animal care practices  
 30 common in the industry or region;

31 (7) the killing of any animal by any person at any time ~~which~~ that  
 32 may be found outside of the owned or rented property of the owner or  
 33 custodian of such animal and ~~which~~ that is found injuring or posing a  
 34 threat to any person, farm animal or property;

35 (8) an animal control officer trained by a licensed veterinarian in the  
 36 use of a tranquilizer gun, using such gun with the appropriate dosage for  
 37 the size of the animal, when such animal is vicious or could not be  
 38 captured after reasonable attempts using other methods;

39 (9) laying an equine down for medical or identification purposes;

40 (10) normal or accepted practices of pest control, as defined in  
 41 ~~subsection (x) of K.S.A. 2-2438a(x)~~, and amendments thereto; or

42 (11) accepted practices of animal husbandry pursuant to regulations  
 43 promulgated by the United States department of agriculture for domestic

1 pet animals under the animal welfare act, public law 89-544, as amended  
2 and in effect on July 1, 2006.

3 (d) The provisions of subsection (a)(6) shall not apply to any person  
4 exposing poison upon their premises for the purpose of destroying wolves,  
5 coyotes or other predatory animals.

6 (e) Any public health officer, law enforcement officer, licensed  
7 veterinarian or officer or agent of any ~~incorporated humane society~~; animal  
8 shelter or other appropriate facility may take into custody any animal,  
9 upon either private or public property, ~~which~~ *that* clearly shows evidence  
10 of cruelty to animals. Such officer, agent or veterinarian may inspect, care  
11 for or treat such animal or place such animal in the care of ~~a duly~~  
12 ~~incorporated humane society~~ *an animal shelter* or licensed veterinarian for  
13 treatment, boarding or other care or, if an officer of such ~~humane society~~  
14 *animal shelter* or such veterinarian determines that the animal appears to  
15 be diseased or disabled beyond recovery for any useful purpose, for  
16 humane killing. ~~If the animal is placed in the care of an animal shelter, the~~  
17 ~~animal shelter shall notify~~ The owner or custodian, if known or reasonably  
18 ascertainable, *shall be notified in writing*. If the owner or custodian is  
19 charged with a violation of this section, ~~the board of county commissioners~~  
20 ~~in the county where the animal was taken into custody shall establish and~~  
21 ~~approve procedures whereby the law enforcement agency, district~~  
22 ~~attorney's office, county prosecutor, veterinarian or animal shelter may~~  
23 ~~petition the district court to be allowed in the county in which the animal~~  
24 ~~was taken into custody to place the animal for adoption or euthanize the~~  
25 ~~animal at any time after 21 days after the owner or custodian is notified or,~~  
26 ~~if the owner or custodian is not known or reasonably ascertainable after 21~~  
27 ~~days after the animal is taken into custody, unless the owner or custodian~~  
28 ~~of the animal files a renewable cash or performance bond with the county~~  
29 ~~clerk of the county where the animal is being held, in an amount equal to~~  
30 ~~not less than the cost of care and treatment of the animal for 30 days. Upon~~  
31 ~~receiving such petition, the court shall determine whether the animal may~~  
32 ~~be placed for adoption or euthanized. The board of county commissioners~~  
33 ~~in the county where the animal was taken into custody shall review the~~  
34 ~~cost of care and treatment being charged by the animal shelter maintaining~~  
35 ~~the animal transferred to the petitioner.~~

36 (f) The owner or custodian of an animal placed for adoption or killed  
37 pursuant to subsection (e) shall not be entitled to recover damages for the  
38 placement or killing of such animal unless the owner proves that such  
39 placement or killing was unwarranted.

40 (g) Expenses incurred for the care, treatment or boarding of any  
41 animal, taken into custody pursuant to subsection (e), pending prosecution  
42 of the owner or custodian of such animal for the crime of cruelty to  
43 animals, shall be assessed to the owner or custodian as a cost of the case if

1 the owner or custodian is adjudicated guilty of such crime.

2 (h) If a person is adjudicated guilty of the crime of cruelty to animals,  
3 ~~and the court having jurisdiction is satisfied that an animal owned or~~  
4 ~~possessed by such person would be in the future subjected to such crime,~~  
5 such animal shall not be returned to or remain with such person. Such  
6 animal may be turned over to ~~a duly incorporated humane society~~ *an*  
7 *animal shelter* or licensed veterinarian for sale or other disposition.

8 (i) As used in this section:

9 (1) *"Animal shelter"* means the same as such term is defined in K.S.A.  
10 *47-1701, and amendments thereto;*

11 (2) "equine" means a horse, pony, mule, jenny, donkey or hinny; and

12 ~~(2)-(3)~~ (3) "maliciously" means a state of mind characterized by actual  
13 evil-mindedness or specific intent to do a harmful act without a reasonable  
14 justification or excuse.

15 Sec. 2. K.S.A. 2016 Supp. 21-6414 is hereby amended to read as  
16 follows: 21-6414. (a) Unlawful conduct of dog fighting is:

17 (1) Causing, for amusement or gain, any dog to fight with or injure  
18 another dog, with no requirement of culpable mental state;

19 (2) knowingly permitting such fighting or injuring on premises under  
20 one's ownership, charge or control; or

21 (3) training, owning, keeping, transporting or selling any dog with the  
22 intent of having it fight with or injure another dog.

23 (b) Unlawful possession of dog fighting paraphernalia is possession,  
24 with the intent to use in the unlawful conduct of dog fighting, any breaking  
25 stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other  
26 paraphernalia.

27 (c) Unlawful attendance of dog fighting is, entering or remaining on  
28 the premises where the unlawful conduct of dog fighting is occurring,  
29 whether the person knows or has reason to know that dog fighting is  
30 occurring on the premises.

31 (d) (1) Unlawful conduct of dog fighting is a severity level 10,  
32 nonperson felony.

33 (2) Unlawful possession of dog fighting paraphernalia is a class A  
34 nonperson misdemeanor.

35 (3) Unlawful attendance of dog fighting is a class B nonperson  
36 misdemeanor.

37 (e) When a person is arrested under this section, a law enforcement  
38 agency may take into custody any dog on the premises where the dog fight  
39 is alleged to have occurred and any dog owned or kept on the premises of  
40 any person arrested for unlawful conduct of dog fighting, unlawful  
41 attendance of dog fighting, or unlawful possession of dog fighting  
42 paraphernalia.

43 (f) When a law enforcement agency takes custody of a dog under this

1 section, such agency may place the dog in the care of a ~~duly incorporated~~  
2 ~~humane society~~ *an animal shelter* or licensed veterinarian for boarding,  
3 treatment or other care. If it appears to a licensed veterinarian that the dog  
4 is diseased or disabled beyond recovery for any useful purpose, such dog  
5 may be humanely killed. The dog may be sedated, isolated or restrained if  
6 such officer, agent or veterinarian determines it to be in the best interest of  
7 the dog, other animals at the animal shelter or personnel of the animal  
8 shelter. ~~If the dog is placed in the care of an animal shelter, the board of~~  
9 ~~county commissioners in the county where the animal was taken into~~  
10 ~~custody shall establish and approve procedures whereby~~ The *law*  
11 *enforcement agency, district attorney's office, county prosecutor,*  
12 *veterinarian or animal shelter* may petition the district court *in the county*  
13 *in which the animal was taken into custody* to be allowed to place the dog  
14 for adoption or euthanize the dog at any time after 21 days after the dog is  
15 taken into custody, unless the owner or custodian of the dog files a  
16 renewable cash or performance bond with the county clerk of the county  
17 where the dog is being held, in an amount equal to not less than the cost of  
18 care and treatment of the dog for 30 days. Upon receiving such petition,  
19 the court shall determine whether the dog may be ~~placed for adoption or~~  
20 ~~euthanized.~~ The ~~board of county commissioners in the county where the~~  
21 ~~animal was taken into custody shall review the cost of care and treatment~~  
22 ~~being charged by the animal shelter maintaining the animal transferred to~~  
23 ~~the petitioner.~~ Except as provided in subsection (g), if it appears to the  
24 licensed veterinarian by physical examination that the dog has not been  
25 trained for aggressive conduct or is a type of dog that is not commonly  
26 bred or trained for aggressive conduct, the district or county attorney shall  
27 order that the dog be returned to its owner when the dog is not needed as  
28 evidence in a case filed under this section or K.S.A. 2016 Supp. 21-6412,  
29 and amendments thereto. The owner or keeper of a dog placed for  
30 adoption or humanely killed under this subsection shall not be entitled to  
31 damages unless the owner or keeper proves that such placement or killing  
32 was unwarranted.

33 (g) If a person is convicted of unlawful conduct of dog fighting,  
34 unlawful attendance of dog fighting or unlawful possession of dog fighting  
35 paraphernalia, a dog taken into custody pursuant to subsection (e) shall not  
36 be returned to such person and the court shall order the owner or keeper to  
37 pay to the animal shelter all expenses incurred for the care, treatment and  
38 boarding of such dog, including any damages caused by such dog, prior to  
39 conviction of the owner or keeper. Disposition of such dog shall be in  
40 accordance with K.S.A. 2016 Supp. 21-6412, and amendments thereto. If  
41 no such conviction results, the dog shall be returned to the owner or keeper  
42 and the court shall order the county where the dog was taken into custody  
43 to pay to the *law enforcement agency, veterinarian or animal shelter* all

1 expenses incurred ~~by the shelter~~ for the care, treatment and boarding of  
2 such dog, including any damages caused by such dog, prior to its return.

3 (h) A person who violates the provisions of this section may also be  
4 prosecuted for, convicted of; and punished for cruelty to animals.

5 (i) *As used in this section, "animal shelter" means the same as such*  
6 *term is defined in K.S.A. 47-1701, and amendments thereto.*

7 Sec. 3. K.S.A. 2016 Supp. 21-6412 and 21-6414 are hereby repealed.

8 Sec. 4. This act shall take effect and be in force from and after its  
9 publication in the statute book.