



Bill Number: S.B. 1198

Kavanagh Floor Amendment

Reference to: Judiciary and Elections
Committee Amendment

Amendment drafted by: Leg Council

FLOOR AMENDMENT EXPLANATION

1. Exempts intentionally or knowingly killing or seriously harming a working or service animal from classification as *animal cruelty* if the action was taken because a person had no reasonable alternative to avoid imminent injury greater than that which might reasonably result from the person's own conduct.

KAVANAGH FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1198
(Reference to JUDICIARY AND ELECTIONS S/E Committee amendment)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

[~~GREEN STRIKEOUT IN BRACKETS~~] indicates new text removed from statute or previously enacted session law.

[~~Green strikeout in brackets~~] indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

<<~~Green strikeout in carets~~>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Strike everything after the enacting clause and insert:

3 "Section 1. Section 13-2910, Arizona Revised Statutes, is amended
4 to read:

5 13-2910. Cruelty to animals; interference with working or
6 service animal; release conditions;
7 classification; definitions

8 A. A person commits cruelty to animals if the person does any of
9 the following:

10 1. Intentionally, knowingly or recklessly subjects any animal under
11 the person's custody or control to cruel neglect or abandonment.

12 2. Intentionally, knowingly or recklessly fails to provide medical
13 attention necessary to prevent protracted suffering to any animal under
14 the person's custody or control.

15 3. Intentionally, knowingly or recklessly inflicts unnecessary
16 physical injury to any animal.

17 4. Recklessly subjects any animal to cruel mistreatment.

18 5. Intentionally, knowingly or recklessly kills any animal under
19 the custody or control of another person without either legal privilege or
20 consent of the owner.

21 6. Recklessly interferes with, kills or harms a working or service
22 animal without either legal privilege or consent of the owner.

23 7. Intentionally, knowingly or recklessly leaves an animal
24 unattended and confined in a motor vehicle and physical injury to or death
25 of the animal is likely to result.

26 8. Intentionally or knowingly subjects any animal under the
27 person's custody or control to cruel neglect or abandonment that results
28 in serious physical injury to the animal.

29 9. Intentionally or knowingly subjects any animal to cruel
30 mistreatment.

1 10. Intentionally or knowingly interferes with, ~~kills or harms~~ a
2 working or service animal without either legal privilege or consent of the
3 owner.

4 11. INTENTIONALLY OR KNOWINGLY KILLS OR SERIOUSLY HARMS A SERVICE
5 ANIMAL WITHOUT EITHER LEGAL PRIVILEGE OR CONSENT OF THE OWNER [OR WITHOUT
6 BEING JUSTIFIED PURSUANT TO SECTION 13-417].

7 ~~11.~~ 12. Intentionally or knowingly allows any dog that is under the
8 person's custody or control to interfere with, kill or cause physical
9 injury to a service animal.

10 ~~12.~~ 13. Recklessly allows any dog that is under the person's
11 custody or control to interfere with, kill or cause physical injury to a
12 service animal.

13 ~~13.~~ 14. Intentionally or knowingly obtains or exerts unauthorized
14 control over a service animal with the intent to deprive the service
15 animal handler of the service animal.

16 ~~14.~~ 15. Intentionally or knowingly subjects a domestic animal to
17 cruel mistreatment.

18 ~~15.~~ 16. Intentionally or knowingly kills a domestic animal without
19 either legal privilege or consent of the domestic animal's owner or
20 handler.

21 ~~16.~~ 17. Intentionally or knowingly harasses a working animal that
22 is in a law enforcement vehicle or trailer without either legal privilege
23 or consent of the owner.

24 18. INTENTIONALLY OR KNOWINGLY CAUSES SERIOUS HARM TO A WORKING
25 ANIMAL WITHOUT EITHER LEGAL PRIVILEGE OR CONSENT OF THE OWNER [OR WITHOUT
26 BEING JUSTIFIED PURSUANT TO SECTION 13-417].

27 19. INTENTIONALLY OR KNOWINGLY KILLS A WORKING ANIMAL WITHOUT EITHER
28 LEGAL PRIVILEGE OR CONSENT OF THE OWNER [OR WITHOUT BEING JUSTIFIED
29 PURSUANT TO SECTION 13-417].

30 B. It is a defense to subsection A of this section if:

31 1. Any person exposes poison to be taken by a dog that has killed or
32 wounded livestock or poison to be taken by predatory animals on premises
33 owned, leased or controlled by the person for the purpose of protecting
34 the person or the person's livestock or poultry, the treated property is
35 kept posted by the person who authorized or performed the treatment until
36 the poison has been removed and the poison is removed by the person
37 exposing the poison after the threat to the person or the person's
38 livestock or poultry has ceased to exist. The posting required shall
39 provide adequate warning to persons who enter the property by the point or
40 points of normal entry. The warning notice that is posted shall be
41 readable at a distance of fifty feet, shall contain a poison statement and
42 symbol and shall state the word "danger" or "warning".

43 2. Any person uses poisons in and immediately around buildings
44 owned, leased or controlled by the person for the purpose of controlling
45 wild and domestic rodents as otherwise allowed by the laws of the state,
46 excluding any fur-bearing animals as defined in section 17-101.

47 C. This section does not prohibit or restrict:

48 1. The taking of wildlife or other activities permitted by or
49 pursuant to title 17.

1 2. Activities permitted by or pursuant to title 3.

2 3. Activities regulated by the Arizona game and fish department or
3 the Arizona department of agriculture.

4 D. A peace officer, animal control enforcement agent or animal
5 control enforcement deputy may use reasonable force to open a vehicle to
6 rescue an animal if the animal is left in the vehicle as prescribed in
7 subsection A, paragraph 7 of this section.

8 E. A person who is convicted of a violation of subsection A,
9 paragraph 6~~[.]~~ ~~OR~~ 10, 11, 18 OR 19 of this section is liable as follows:

10 1. If the working or service animal was INJURED, killed or
11 disabled, to the owner or agency that owns the working or service animal
12 and that employs the handler or to the owner or handler for the
13 replacement and training costs of the working or service animal and for
14 any veterinary bills.

15 2. To the owner or agency that owns a working or service animal for
16 the salary of the handler for the period of time that the handler's
17 services are lost to the owner or agency.

18 3. To the owner for the owner's contractual losses with the agency.

19 F. An incorporated city or town or a county may adopt an ordinance
20 with misdemeanor provisions at least as stringent as the misdemeanor
21 provisions of this section, except that any ordinance adopted shall not
22 prohibit or restrict any activity involving a dog, whether the dog is
23 restrained or not, if the activity is directly related to the business of
24 shepherding or herding livestock and the activity is necessary for the
25 safety of a human, the dog or livestock or is permitted by or pursuant to
26 title 3.

27 G. If a judicial officer orders the release of a person who is
28 currently serving a term of probation for a violation of this section and
29 who is charged with a new violation of this section on the person's own
30 recognizance or on the execution of bail, the judicial officer shall
31 impose a condition of release that prohibits the person from possessing or
32 having contact with any animal.

33 H. A person who violates subsection A, paragraph 1, 2, 3, 4, 5, 6,
34 7, ~~12~~ 13 or ~~16~~ 17 of this section is guilty of a class 1 misdemeanor. A
35 person who violates subsection A, paragraph 8, 9, 10, ~~11~~ 12 or ~~13~~ 14 of
36 this section is guilty of a class 6 felony. A person who violates
37 subsection A, paragraph ~~14~~ ~~OR~~ 11, 15, 16 OR 18 of this section is guilty
38 of a class 5 felony. A PERSON WHO VIOLATES SUBSECTION A, PARAGRAPH 19 OF
39 THIS SECTION IS GUILTY OF A CLASS 4 FELONY.

40 I. For the purposes of this section:

41 1. "Animal" means a mammal, bird, reptile or amphibian.

42 2. "Cruel mistreatment" means to torture or otherwise inflict
43 unnecessary serious physical injury on an animal or to kill an animal in a
44 manner that causes protracted suffering to the animal.

45 3. "Cruel neglect" means to fail to provide an animal with
46 necessary food, water or shelter.

47 4. "Domestic animal" means a mammal, not regulated by title 3, that
48 is kept primarily as a pet or companion or that is bred to be a pet or
49 companion.

1 5. "Handler" means a law enforcement officer or any other person
2 who has successfully completed a course of training prescribed by the
3 person's agency or the service animal owner and who used a specially
4 trained animal under the direction of the person's agency or the service
5 animal owner.

6 6. "Harass" means to engage in conduct that a reasonable person
7 would expect to impede or interfere with a working animal's performance of
8 its duties.

9 7. "Service animal" means an animal that has completed a formal
10 training program, that assists its owner in one or more daily living tasks
11 that are associated with a productive lifestyle and that is trained to not
12 pose a danger to the health and safety of the general public.

13 8. "Working animal" means a horse or dog that is used by a law
14 enforcement agency, that is specially trained for law enforcement work and
15 that is under the control of a handler.

16 Sec. 2. Section 13-2910.11, Arizona Revised Statutes, is amended to
17 read:

18 13-2910.11. Unlawful animal ownership or possession; transfer
19 of animals; restoration of right to possess
20 animals; classification; good cause exception;
21 definitions

22 A. It is unlawful for a person who has been convicted of any of the
23 following offenses to own, possess, adopt, foster, reside with or
24 otherwise intentionally contact, care for or have custody of any animal in
25 the person's household:

26 1. An intentional or knowing violation of cruelty to animals
27 pursuant to section 13-2910, subsection A, paragraph 1, 2, 3, 7, 8, 9, ~~11,~~
28 ~~14~~ 12, 15 or ~~15~~ 16.

29 2. Cruelty to animals pursuant to section 13-2910, subsection A,
30 paragraph 4.

31 3. Animal fighting pursuant to section 13-2910.01.

32 4. Bestiality pursuant to section 13-1411.

33 B. Except as provided in subsection D of this section, the
34 prohibitions listed in subsection A of this section shall remain in place
35 for the following amount of time:

36 1. For a first misdemeanor conviction, at least five years.

37 2. For a first felony conviction or a second or subsequent
38 misdemeanor conviction, at least ten years.

39 3. For a second or subsequent felony conviction, for the person's
40 lifetime.

41 C. Within thirty days after a person is prohibited from possessing
42 an animal pursuant to this section, the person shall transfer all animals
43 in the person's care or custody to another person who is not in the
44 person's household.

45 D. On proper application and not less than one year after the
46 person is convicted of a misdemeanor violation of an offense listed in
47 subsection A of this section or two and one-half years after the person is
48 convicted of a felony violation **OF AN OFFENSE LISTED IN SUBSECTION A OF**
49 **THIS SECTION**, the person may apply to have the person's right to possess

1 an animal restored. Any time spent on absconder status while on
2 probation, on escape status or incarcerated is excluded in calculating the
3 minimum time requirement. The person may apply to the judge, justice of
4 the peace or magistrate who pronounced sentence or imposed probation or
5 the SUCCESSOR IN OFFICE OF THE judge, justice of the peace or ~~magistrate's~~
6 ~~successor in office~~ MAGISTRATE. The applicant shall serve a copy of the
7 application on the prosecutor. The court shall conduct a hearing on the
8 request within sixty days after the application is filed. The defendant
9 bears the burden by a preponderance of evidence at the hearing. To assist
10 the court in making a determination, the court shall require the person to
11 complete a psychiatric or psychological examination and undergo
12 counseling, if necessary, before restoring the person's right to possess
13 an animal. The court may terminate or reduce the time period required by
14 subsection B of this section on a finding that:

15 1. The applicant does not present a danger to self, the animal's
16 immediate family and the public.

17 2. The applicant has the ability to properly care for all animals
18 in the applicant's possession.

19 3. The applicant has successfully completed all classes or
20 counseling that was ordered by the sentencing court.

21 E. A convicted person who lives in a household with an animal that
22 is owned, possessed, adopted or fostered by another person in the
23 household may apply to the court for a good cause exception. A good cause
24 exception is valid for one year and allows the convicted person to reside
25 in the same household as an animal. The convicted person may request the
26 court to renew a good cause exception sixty days before the good cause
27 exception expires. The court may grant a good cause exception or renew a
28 good cause exception if all of the following apply:

29 1. The convicted person is on supervised or unsupervised probation,
30 community supervision or parole or agrees to be subject to the court's
31 jurisdiction and supervision while living in the household.

32 2. The court determines that it is in the best interests of the
33 animal and the person who owns, possesses, adopts or fosters the animal to
34 allow the convicted person to remain in the same household and reside with
35 the animal.

36 3. The convicted person agrees to not intentionally contact, care
37 for or have custody of the animal.

38 F. A person who violates this section is guilty of a class 1
39 misdemeanor.

40 G. For the purposes of this section:

41 1. "Animal":

42 (a) Means any domesticated dog or cat.

43 (b) Does not include livestock as defined in section 3-1201 or
44 wildlife as defined in section 17-101.

45 2. "Household" includes all of the persons who occupy a housing
46 unit as the person's usual place of residence, including all of the
47 following:

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1 (a) The related family members and all unrelated persons, if any,
2 such as lodgers, foster children, wards or employees who share the housing
3 unit.

4 (b) A person who lives alone in a housing unit or a group of
5 unrelated persons sharing a housing unit such as partners or roomers.

6 3. "Housing unit" means a house, an apartment, a mobile home or
7 trailer, a group of rooms or a single room occupied as separate living
8 quarters for a household and includes any front, side or rear yards and
9 any garages and detached garages that are under the control of the
10 household."

11 Enroll and engross to conform

12 Amend title to conform

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